JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

COMMONWEALTH OF KENTUCKY

EXTRAORDINARY SESSION, 1936
(Special Session)

Held in the State Capitol, in the Capital City of Kentucky,
at Frankfort, in the year of Our Lord 1936 and in
the One Hundred and Forty-Fourth year
of the Commonwealth

Begun on the twenty-third day of December and adjourned
sine die on the sixteenth day of January, 1937

BROOKS L. HARGROVE, *Chief Clerk*
MARSHALL BARNES, *Assistant Clerk*
JANE ADDAMS WADDLE, *Stenographer*

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WEDNESDAY, DECEMBER 23, 1936.

At a special session of the General Assembly of the Commonwealth of Kentucky, begun and held at the Capitol in the city of Frankfort, Kentucky, on Wednesday, December 23, in the year of Our Lord, one thousand nine hundred and thirty-six, and the one hundred and forty-fourth year of the Commonwealth, in accordance and in obedience to a proclamation issued by the Governor of the Commonwealth on Wednesday, December 23, 1936, as hereinafter set out, the House of Representatives was called to order by the Honorable John Kirtley, Speaker of the House, and was opened with prayer by the Reverend Albert G. Stone of the Methodist Episcopal Church, South, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	W. T. Baker	Douglas Bolling
Henry H. Allen	G. M. Ballard	Ollie J. Bowen
C. W. Anderson, Jr.	B. F. Bedford	Wallace Brown
H. T. Baker	Reuben J. Boling	Dr. R. A. Byers

Jas. C. Carter	Ben W. Johnson	Wade H. Riley
V. O. Chandler	J. H. Jones	Joe E. Robinson
Roscoe Claxon	O. C. Jones	John C. Robinson
George S. Clay	R. T. Kirkman	W. T. Rollo
Roy Conway	J. F. Ladd	A. W. Ross
Herbert Cook	Leslie Larrimore	Carl Scheben
Harry Davis	Robert E. Lee	Carl Schneider
Sam Dever	M. T. McCarthy	Ray O. Shehan
Stanley S. Dickson	T. B. McConnell	Dr. B. F. Shields
Howard G. Early	J. L. McDermott	P. L. Sidebottom
Garland Embry	Elmer McGlothen	Chester D. Silvers
Walter R. Fannin	John Marshall	Bruce Sloan
Chas. P. Farnsley	C. S. Matherly	H. C. Steely
T. P. Fitzpatrick	D. T. Matlack	Henry Stewart
H. Myer Garner	Duke Mayfield	Dr. H. S. Swope
James Garnett, Jr.	W. H. Miller	W. R. Tapp
G. W. Garrett	W. E. Mull	J. J. Thomas
Ferd A. Gnau	Tyler Munford	R. Van Bever, Jr.
Ben Grogan	Rodes K. Myers	S. J. Wagner
Jas. T. Hamilton	J. C. Nickell	Joseph L. Wall
C. L. Hammons	Russell O'Neill	Henry Ward
W. L. Hampton, Jr.	A. W. Pfeiffer	L. R. Wells
Thomas W. Hines	J. C. Ramey	W. G. Williams
Clyde S. Howard	Hobart Rayburn	Charles Wylie
Ira W. Hulette	Harry C. Records	John Kirtley, Spkr.
John M. Hunnicut	L. K. Rice	

It appearing that a majority of all the members of the House are present, the following proclamation was read by Brooks L. Hargrove, Chief Clerk of the House, viz.:

WHEREAS, It has become imperative that the General Assembly of the Commonwealth of Kentucky enact legislation prior to January 1, 1937, providing for cooperation with the Federal Government in the matter of unemployment compensation insurance; and

Whereas, Certain other emergencies affecting the Commonwealth of Kentucky have arisen, including the need for

repealing the Omnibus Tax Bill, House Bill 59, Third Extraordinary Session, 1936:

Now, Therefore, in order to enact legislation providing for cooperation with the Federal Government in the matter of unemployment compensation insurance, and in order to repeal the Omnibus Tax Bill, House Bill 59, Third Extraordinary Session, 1936, and to permit the consideration of certain other emergencies which have arisen, and according to the power vested in me by the Constitution of Kentucky to convene the General Assembly into extraordinary session, *I do Issue this My Proclamation* convening the General Assembly of Kentucky in Extraordinary session at the seat of government at Frankfort, Kentucky, at one o'clock p. m. on Wednesday, December 23, 1936, for the purpose of considering the following subjects:

1. To enact unemployment compensation legislation and to establish a State employment service so as to enable the State of Kentucky to come within the purview of the Federal Social Security Act and to secure to employees in Kentucky industry the protection contemplated by the provisions of unemployment compensation titles of said Social Security Act.

2. To provide an allowance to compensate the tobacco wholesalers for stamping cigarettes under the terms of Chapter four of the Third Extraordinary Session of the General Assembly of 1936, and to require cigarette manufacturers to submit reports.

3. To pass an Act to provide for collection of omitted and delinquent taxes, and to compel collecting officers to transmit moneys in their charge to the Treasury of the Commonwealth.

4. To provide for repeal of Chapter three of the Acts of the Third Extraordinary Session of the General Assembly of 1936, and to continue in effect the administrative provisions necessary to collect taxes on account of sales made (and, in

case of cosmetics, of merchandise received) prior to the effective date of the repealing act.

5. To enable cities of the first class to cooperate with the Federal Government in the construction of law school buildings for municipal universities.

6. To enable Board of Education of cities of the second class to maintain and operate junior colleges.

7. To authorize the division of purchase and public properties on the approval of the Commissioner of Finance and the Governor, to purchase and dispose of real estate for the Commonwealth and to use the proceeds from the real estate sales for the purpose of additional real estate, the erection and reconstruction of buildings for the use of the Commonwealth, and to cooperate with the Federal Government in the financing of such construction projects.

8. To repeal, amend and re-enact the following named Sections of the Kentucky Statutes, Carroll's 1930 Edition, of the Workmen's Compensation Act, 4883, 4887, 4893, 4932, 4933, 4934, and 4957.

9. To provide for the registration of trade-marks, for the administration thereof and for the disposition of fees authorized and collected therefor.

10. To provide an appropriation for the expense of the 1936-1937 Special Session of the General Assembly, not to exceed $75,000.00.

11. To amend Kentucky Statutes, Sections 2739g-1, 2739j-42 and 4281i-1 so as to exclude from the definition of "motor vehicles" therein contained such vehicles as are propelled by electric power from overhead wires.

12. To enact tobacco control legislation.

13. To enact milk control legislation.

14. To enact legislation providing for regulation of trade practices

15. To repeal Chapter 129 of the Acts of the General Assembly to the Regular Session of 1934.

16. To exempt the income of building and loan associations incorporated under the laws of Kentucky from the Income Tax Act of 1936.

17. To authorize the refund of taxes paid under the terms of Chapter 149 of the Acts of the General Assembly of 1930 and not heretofore refunded.

18. To pass an act authorizing the creation of rural electrification nonprofit cooperative corporations.

19. To pass an act amending Chapter 113, Acts of the General Assembly, 1934 Regular Session, to make the same applicable to cities of the third class.

20. To enact legislation and amendments to existing laws relating to the construction, purchase and acquisition of waterworks by municipal corporations and the issuance of bonds payable from the revenues of such waterworks only to pay the cost thereof.

You will therefore in accordance with this proclamation assemble in Extraordinary Session at the seat of government at Frankfort Kentucky, on the day and date above written, to consider the subjects herein mentioned and only said subjects.

Given under my hand at 12:30 o'clock p. m., this 23rd day of December, 1936.

By the Governor:

A. B. CHANDLER,

Governor of Kentucky.

COMMONWEALTH OF KENTUCKY

OFFICE OF THE

SECRETARY OF STATE

CERTIFICATE

I, CHARLES D. ARNETT, Secretary of State for the Commonwealth of Kentucky, do certify that the foregoing writing

has been carefully compared by me with the original record thereof, now in my official custody as Secretary of State and remaining on file in my office, and found to be a true and correct copy of Executive order of Governor A. B. Chandler, issued December 23, 1936, for special call of the General Assembly to convene in extraordinary session, at Frankfort, at one o'clock p. m., Wednesday, December 23, 1936.

In witness whereof, I have hereunto set my hand and affixed my official seal.

Done at Frankfort this 23d day of December, 1936.

CHARLES D. ARNETT,
Secretary or State.

[SEAL]

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Dr. Shields offered the following resolution, viz.:

Be it Resolved by the House of Representatives: That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort, Kentucky, to be present and open the meetings of this Special Session of the General Assembly with prayer.

Said resolution was adopted.

Mr. Joe E. Robinson offered the following resolution, viz.:

Be it Resolved by the House of Representatives: That all the elected constitutional employees of the House of Representatives who were elected in the 1936 General Assembly, be and they are hereby continued in their respective offices for this 1936 Special Session, and

Be it Further Resolved, that the Speaker of the House of Representatives be and he is hereby empowered to appoint such additional employees as he may deem necessary.

Said resolution was adopted.

Mr. Joe E. Robinson offered the following resolution, viz.:

Be it Resolved by the House of Representatives: That the rules covering the House of Representatives during the regular session of 1936 be, and the same are hereby, adopted as the rules of this House for this Extraordinary Session.

Said resolution was adopted.

Mr. Gnau moved that the vote by which said resolution was adopted be reconsidered and that said motion lie on the table

Said last named motion was agreed to.

Dr. Shields offered the following resolution, viz.:

Be it Resolved by the House of Representatives: That a Committee of this House be appointed by the Speaker to wait upon the Senate and notify that body that this House is now organized and ready to proceed to the transaction of business and that said Committee shall in conjunction with a like Committee to be appointed from the Senate, wait upon the Goverernor and inform him that this General Assembly is now organized and ready to receive any communication he may desire to make.

Said resolution was adopted.

Thereupon the Speaker appointed Messrs. Shields, Gnau, Mayfield and Baker as members constituting such Committee.

After a time the Committee aforesaid, reported that they had discharged the duties imposed upon them and that they had been informed that the Governor would address the General Assembly in Joint Session on to-day.

After a time the Senate of Kentucky appeared and in order, entered upon the floor of the House of Representatives and the Hon. Keen Johnson, Lieutenant-Governor and President of the Senate, took the Chair and presided, and the Hon. John Kirtley, Speaker of the House of Representatives, having taken his seat on the right of the President of the Senate, the two Houses were convened in Joint Session which was composed of a majority of the members elected to each body.

The Committee heretofore appointed by the Speaker to wait upon the Governor, appeared upon the floor of the House with His Excellency, A. B. Chandler, Governor of Kentucky, who took his place at the Clerk's desk and addressed the General Assembly in Joint Session in regard to the provisions set forth in his proclamation.

Senator Gilbert moved that the Joint Session do now dissolve.

Said motion was agreed to.

Thereupon the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Dr. Shields:

H. B. 1. An Act to provide for the payment of unemployment compensation to designated classes of persons and for the administration thereof; the declaration of a state public policy, an enumeration of benefits; prescribing benefits, eligibility conditions, and disqualifications for benefits; defining claims for benefits; and seting up methods of procedure for claiming and determining benefit, providing for hearings and review of disputed claims; exacting certain contributions from employers and employees and providing for a method of fixing future rates; providing for the determination of the period, election and termination of employers' coverage; providing for the establishment of an unemployment compensation fund and its administration and for the creation therein of certain accounts and for its discontinuance in the event of certain contingencies, and for the procedure relative thereto; setting up the administrative organization and prescribing salaries; providing for the administration; establishing an employment service and prescribing salaries and accepting the Wagner-Peyser Act, as amended, establishing an unemployment compensation administration fund, and special accounts therein and making apropriations therefor; providing for the collections of contributions; providing for the protection of the rights and benefits; providing certain penalties; providing for representaton in court, declaration of non-liability of the state; defining certain terms; exempting certain employment; appropriating all monies collected and received under this act, providing for reciprocal benefit agreements with other states or with the United States; providing for saving clause; providing for separability clause; repealing conflicting laws; providing for concurrence with the Federal Act and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SHORT TITLE

§ 1. This Act shall be known and may be cited as the "Unemployment Compensation Law".

DECLARATION OF STATE PUBLIC POLICY

§ 2. As a guide to the interpretation and application of this Act, the public policy of this State is declared to be as follows:

Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this State. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the General Assembly to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The General Assembly, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this State require the enactment of this measure, under the police powers of the State, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

BENEFITS

§ 3. (a) *Payments of Benefits.* Twenty-four months after the date when contributions (as defined in Section 19(d)) first accrue under this Act from any employer (as defined in Section 19 (f), benefits shall become payable to any indvidual who thereafter is or becomes unemployed and eligible for

benefits. All benefits shall be paid through the employment offices, or such other agency as the Social Security Board may approve, at such times and in such manner as the Commission may prescribe.

(b) *Weekly Benefit Amount for Total Unemployment.* Each eligible individual who is totally unemployed (as defined in Section 19(1)) in any week shall be paid, with respect to such week, benefits (computed to the next highest multiple of twenty cents) at the rate of fifty per centum of his full-time weekly wages (as defined in subsection (f) of this section) from the employer against whose weeks of employment (as defined in Section 19(q)) of such individual such benefits are chargeable under this Act, but not more than fifteen dollars per week, nor less than either five dollars or three-fourths of his full time, whichever is the lesser.

(c) *Charging of Benefits against Past Weeks of Employment.* Each individual's benefits shall be limited in accordance with the ratio provisions of subsection (e) of this section. In no event shall any one calendar week be chargeable as more than one week of employment. If during any one calendar week an individual has rendered services for more than one employer, his benefits shall be chargeable only against the week of employment for the employer by whom the plurality of his wages for such week was payable. An individual's benefit shall be charged against those of his weeks of employment, against which benefits have not previously been charged hereunder in the inverse chronological order in which such weeks occurred, provided that:

(1) If the amount chargeable against a particular week of employment under the provisions of subsection (e)(1) of this section equals less than one-eighth of his weekly benefit amount, or, under the provisions of subsection (e)(2) of this section, equals less than one-fortieth of his weekly benefit amount, no week of employment shall be chargeable there-

with; and such amounts shall be charged to the fund's pooled account; and

(2) If the amount chargeable against a particular week of employment under the provisions of subsection (e)(1) of this section equals one-eighth of his weekly benefit amount, or more, or, under the provisions of subsection (e)(2) of this section, equals one-fortieth of his weekly benefit amount or more, such week of employment shall be charged in full.

(d) *Weekly Benefit Amount for Total Unemployment Chargeable against More than One Employer's Account.* If in accordance with the provisions of subsections (c) and (e) of this section, any benefit for a particular week of total unemployment is chargeable against weeks of employment by more than one employer, such benefit shall be equal to the total of the amounts chargeable against each chargeable week of employment by each such employer.

(e) *Ratio Provisions and Duration of Benefits.* Benefits shall be paid each unemployed and eligible individual, with respect to his total unemployment occurring within any period of fifty-two consecutive weeks;

(1) In the ratio of one-fourth of his applicable weekly benefit amount to each uncharged week of employment occurring within one hundred and four consecutive weeks preceding the close of his most recent week of employment, except that his aggregate benefits thus payable shall not exceed fifteen times his highest applicable weekly benefit amount during such fifty-two week period.

(f) *Determination of Full-Time Weekly Wage.* The "full-time weekly wage" of any individual means the product obtained by multiplying his "hourly rate of earnings" by his "full-time weekly hours", both of which shall be determined and redetermined at reasonable intervals in accordance with rules prescribed by the Director, Division of Unemployment Compensation, with the advice of the associate directors. In computing the benefits payable to any individual with respect

to a particular week of his total unemployment, his "full-time weekly wage", "hourly rate of earning" and "full-time weekly hours" shall be determined with respect to each employer against whose weeks of employment of such individual, his benefits are then chargeable under this Act.

(1) An individual's "full-time weekly hours" shall be determined as follows: There shall be added together the hours worked by the individual in all those weeks of employment for a particular employer, occurring within the fifty-two weeks preceding the close of his most recent week of employment for that employer, in which he worked twenty-eight hours or more. Such total hours shall be divided by the number of such weeks, and the resulting weekly average shall constitute the employee's full-time weekly hours, until a subsequent determination is made. If the application of the above method would be unreasonable or arbitrary as applied in a particular case, the "full-time weekly hours" for such individual shall be determined in accordance with fair and reasonable methods prescribed by the Commission.

(2) An individual's "hourly rate of earnings" shall be determined by dividing his total wages for the last thirteen weeks or if there are less than thirteen, all his week's of employment for a particular employer, which precede the close of his most recent week of employment for that employer, and during which he was employed for his full-time weekly hours or more, by the total number of hours of employment within such weeks; the quotient so obtained shall be his hourly rate of earnings until a subsequent determination is made, provided that if the application of such method of determination would be unreasonable or arbitrary as applied in a particular case, the "hourly rate of earnings" of such individual shall be determined in accordance with fair and reasonable methods prescribed by the Commission.

(3) The Commission may, after fair notice and opportunity to be heard, determine the full-time weekly hours cus-

tomarily worked, or the hourly rate of earnings customarily received, or both, by employees in any trade or industry or any type of employment therein, in this State, in any part of this State, or in any establishment of a particular employer in this State. Such determination shall be made and published in accordance with the provisions of this Act for general rules. Thereafter, until such determination is amended or rescinded, such weekly hours or such hourly rate of earnings, or both, shall be deemed to be the full-time weekly hours or the hourly rate of earnings, or both, of any individual employed by an employer in such trade, industry or type of employment, provided that, upon showing of good cause therefor, the Commission may exempt any such individual or employer from the application of such determination if it finds that the application thereof to him would be impracticable or inequitable.

BENEFIT ELIGIBILITY CONDITIONS

§ 4. An unemployed individual shall be eligible to receive benefits with respect to any week only if it has been found by the Commission that:

(a) He has made a claim for benefits in accordance with the provisions of Section 6(a) of this Act.

(b) He has registered for work at the employment office designated by the Director within such time limits and with such frequency and in such manner (such as in person or in writing) as the Commission may by general rule prescribe, provided that failure to comply with this condition may be excused by the Commission upon a showing of good cause therefor.

(c) He is physically and mentally able to work, and is available for work.

(d) Prior to any week for which he claims benefits for total unemployment, he has been totally unemployed for a waiting period of at least three weeks with respect to which he received no benefits but during which he was eligible for

benefits in all other respects, except for the requirements of subsection (a) and subsection (e) of this section, and was not ineligible for benefits under any provisions of Section 5, except subsection (f) thereof of this Act. Such three weeks of total unemployment need not be consecutive, but shall be accumulated over the period of twenty-six consecutive weeks preceding any week for which he claims benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of total unemployment and provided further that such three weeks of total unemployment occur after benefits first could become payable to any individual under this Act.

(e) He has had at least twenty weeks of employment within the fifty-two consecutive weeks preceding the close of his most recent week of employment.

DISQUALIFICATION FOR BENEFITS

§ 5. An individual shall be eligible for benefits:

(a) For the week in which he has left work voluntarily without good cause or has been discharged for misconduct and for not less than two nor more than the nine next following weeks (in addition to the waiting period), as determined by the Commission in each case according to the circumstances of the case.

(b) If an otherwise eligible individual fails, without good cause, either to apply for suitable work when notified by the employment office, or to accept suitable work when offered him or return to his customary self-employment, if any, he shall thereby become ineligible for benefits for the week in which such failure occurred and for not less than two nor more than the nine following next weeks (in addition to the waiting period) as determined by the Commission.

"Suitable work" shall mean any work for which the individual in question is reasonably fitted, which is located with-

in a reasonable distance of his residence or last employment, and which is not detrimental to his health, safety or morals.

Notwithstanding any other provision of this Act, no work shall be deemed suitable, and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any *bona fide* labor organization.

(c) An individual who has left (or partially or totally lost) his employment with an employer because of a strike or other bona fide labor dispute shall not be eligible for benefits from such (or any previous) employer's account for any week in which such strike or other *bona fide* labor dispute is in active progress in the establishment in which he is or was employed.

(d) An individual shall not be eligible for benefits from a given employer's account for any week in which he is employed due to an act of God, fire or other catastrophe, or act of civil or military authority, directly affecting the place in which he was employed by such employer.

(e) For any week with respect to which the individual is receiving or has received remuneration in the form of:

1. Wages in lieu of notice, or any payment by the way of compensation for the loss of wages through an Employee Pension Plan;

2. Compensation for disability under the Workmen's Compensation Law of any state or under a similar law of the United States; or

3. Old Age Benefits under Title II of the Social Security Act, as amended;

provided that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week if otherwise eligible, benefits reduced by the amount of such remuneration.

(f) Chargeable against weeks of employment for a particular employer if he has not been employed by that employer for a probationary service period of at least two weeks of employment.

CLAIM FOR BENEFITS

§ 6. (a) *Filing.* Claims for benefits shall be made in accordance with such regulations as the Director may prescribe, at the employment office nearest either to the individual's place of residence or to the place of his most recent employment. An employer shall if requested give to each of his employees at the time such employee becomes totally unemployed, a printed statement of the regulations prescribed by the Director relating to the filing of claims for benefits. Such printed statements shall be supplied by the Director to each employer without cost to him.

(b) *Initial Determination.* A deputy or representative designated by the Director, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of the facts found by him, may determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or may refer such claim to the Commission, which shall make the same determination with respect thereto in accordance with the procedure prescribed in subsection (e) of this section. He shall promptly notify the claimant and the employer or employers against whose reserve account such benefits are chargeable, of the decision and the reasons therefor. Unless the claimant or such employer or employers within seven calendar days after the

delivery of such notification, or within seven calendar days after such notification was mailed by registered mail to his last known address, files with the Commission an appeal from such decision and applies for a hearing, such decision shall be final and benefits shall be paid or denied in accordance therewith. In the event of an appeal no benefits shall be paid until the final determination of that appeal by the last body to which the appeal is presented and such benefits, if any awarded, shall bear interest at the rate of six per cent (6%) per annum from the date said benefit first became due until paid.

Upon motion of either party and a sufficient showing of reason and necessity therefor, the circuit court to which an appeal is taken may continue in force the award, judgment or order appealed from, pending its decision of such appeal, for such period, but to be suspended upon the execution by the adverse party of a supersedeas bond for appeal to the Court of Appeals.

(c) *Appeals.* Unless such request for hearing is withdrawn, the Commission, after affording the parties reasonable opportunity for fair hearing upon not less than ten days' notice, shall affrm, modify or set aside the findings of fact and decision of the deputy. The parties shall be duly notified of such decision and the reasons therefor which shall be deemed to be final, unless within twenty days after the date of such decision, an appeal is taken to the Circuit Court.

(d) *Continuous Jurisdiction.* Upon their own initiative, or upon application of any party in interest, on the ground of a change in conditions, or because of a mistake as to fact, the Commission may, at any time within one year after the making thereof, review an award of benefits or the denial of a claim therefor, in accordance with the procedure prescribed in respect to claims, and in accordance with such review, issue a new decision which may award, terminate, continue, increase or decrease such benefits. Such new order shall not affect any benefits paid before the date thereof under authority of the

prior order and shall be subject to judicial review as provided in this section.

(e) *Procedure.* The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with reasonable rules prescribed by the Commission for determining the rights of the parties, the hearing being conducted in a summary manner. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing shall be reduced to writing, but need not be transcribed unless the disputed claim is further appealed.

(f) *Oaths and Witnesses.* In the discharge of the duties imposed by this Act, the members of the Commission, or the duly authorized representatives of the Commission as designated by its rules, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and to issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary and relevant as evidence in connection with the disputed claim or the administration of this Act.

(g) *Subpoenas.* In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this State within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a member thereof, or its duly authorized representative, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the

court without just cause may be punished by said court as a contempt thereof.

(h) *Protection against Self-Incrimination.* No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission or a member thereof, on the ground that the testimony or evidence, documentary or otherwise required of him, may tend to incriminate him or subject him to a penalty or forfeiture; but no person, firm or corporation shall be prosecuted or subjected to any suit, penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or its agent or employee is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such witness so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(i) *Witness Fees,* Witness subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Commission. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this Act.

(j) *Appeal to Courts.* Any decision of the Commission, in the absence of an appeal therefrom as herein provided, shall become final twenty days after the date thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission, as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney who is designated by the Director for that purpose or at the request of the Director, by the Attorney General.

(k) *Court Review.* Within twenty days after the decision of the Commission has become final, any party aggrieved

thereby may secure judicial review thereof by filing a petition in the Circuit Court of the county in which the claimant was last employed by an employer whose reserve account is affected by such claim, against the Commission for the review of its decision, in which action any other party to the proceeding before the Commission shall be made a defendant. Such petition shall state fully the grounds upon which a review is sought, assign all errors relied on and shall be verified by the petitioner, who shall furnish copies thereof for each defendant to the Commission, who shall deliver one such copy to each of such defendants. Summons shall issue upon the petition directing the Commission to file answer within fifteen days after service thereof; such summons shall be served upon a member of the Commission, or upon such person as the Commission may designate and such service shall be deemed complete service upon all members of the Commission. With its answer, the Commission shall certify and file with the Court all documents and papers and a transcript of all testimony taken in the matter, and orders made therein, together with its findings of fact and decision therein, provided, however, that, if consented to by the petitioner and the adverse party, an abstract of any portion of the record may be certified by the Commission in lieu of certifying such portion of the record in full. The Commission may also, in its discretion, certify to such Court questions of law involved in any decision by it. Such actions, and the questions so certified, shall be heard by the Court in a summary manner upon the record certified by the Commission and shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Law of this State. The Court shall enter judgment affirming, modifying or setting aside the order or decision appealed from, or determining the question of law certified to it by the Commission, and may in advance of judgment, in its discretion, remand the case to the Commission for further proceedings in accordance with

the direction of the Court. An appeal may be taken from the decision of the Circuit Court to the Court of Appeals, in the same manner but not inconsistent with the provisions of this Act, as is provided in equity cases. It shall not be necessary, in any judicial proceeding under this section to enter exceptions to the rulings of the Commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination.

CONTRIBUTIONS

§ 7. (a) *Payments.*

(1) On and after December 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment (as defined in Section 19 (g)) occurring during such year. Such contributions shall become due and be paid monthly by each employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) *Rate of Contribution after* 1936. Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) One and eight-tenths (1.8) per centum with respect to employment during the calendar year, 1937;

(2) Two and seven-tenths (2.7) per centum with respect to employment during the calendar years 1938, 1939, 1940, 1941; and

(3) With respect to employment after December 31, 1941,

the percentage determined pursuant to subsection (c) of this section.

(c) *Future Rates Based on Benefit Experience.* The Commission shall, for the year 1939 and for each calendar year thereafter, determine the contribution rate applicable to each employer on the basis of his actual experience in the payment of contributions credited to his reserve account and with respect to benefits charged against his separate reserve account, in accordance with the following requirements:

(1) Each employer's rate shall be two and seven-tenths (2.7) per centum, unless and until there shall have been one calendar year throughout which an individual in his employ could have received benefits if unemployed and eligible.

(2) Each employer's rate for the twelve months commencing January 1, of any calendar year, shall be determined on the basis of the record of his reserve account up to the beginning of such calendar year. If, at the beginning of such calendar year, the balance in such reserve account equals at least five times the largest total amount of benefits charged against such account within any one of the three preceding calendar years, his contribution rate shall

(a) Be two (2) per centum if such balance equals or exceeds ten and three-tenths (10.3), but is less than thirteen and seven-tenths (13.7) per centum of his annual payroll for the preceding twelve consecutive calendar months;

(b) Be one (1) per centum, if such balance equals or exceeds thirteen and seven-tenths (13.7), but is less than seventeen and one-tenth (17.1) per centum of his annual payroll for the preceding twelve consecutive calendar months;

(c) Cease if such balance equals or exceeds seventeen and one-tenth (17.1) per centum of his annual payroll for the preceding twelve consecutive calendar months.

(3) If in any month any payment of benefits has been made from the pooled account because his reserve account is

exhausted, for the twelve months immediately following, the employer's rate shall be three and seven-tenths (3.7) per centum.

(d) *Contribution by Employees.* (1) Each employee shall contribute to his employer's reserve account five-sixths (5/6) of one per centum and to the pooled account one-sixth (1/6) of one per centum of his wages paid by an employer with respect to his employment which occurs after December 31, 1936, after the expiration of the applicable probationary period, and after such employer has become an employer under Section 19(f) of this Act, provided that in no case shall rate of contributions required of any employee exceed fifty (50) per centum of the total rate of contributions required from his employer with respect to the same time. Each employer shall, notwithstanding any provisions of law in this State to the contrary, withhold in trust the amount of his employees' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his employees as the Commission may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the Commission in such manner and at such times as the Commission may prescribe. If any employer fails to deduct the contributions of any of his employees at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, but for the purpose of Section 14 hereof, such contributions shall be treated as employer's contributions required from him. As used in this Act, except when the context clearly requires otherwise, the term contributions shall include the contributions of employees pursuant to this section.

(2) Every employer who has elected to become subject to this Act or to cease to be subject to this Act, pursuant to the provisions of Section 8, shall post and maintain printed

notices of such election on his premises, of such design, in such numbers, and at such places as the Commission may determine to be necessary to give notice thereof to his employees.

(3) Contributions by employees, payable to the fund as herein provided, shall be exempt from garnishment, assignment, attachment, execution, or any other remedy for the collection of debts.

RATE OF CONTRIBUTIONS FOR 1936

§ 7-a. Each employer shall pay contributions equal to the following percentage of wages payable by him with respect to employment during the calendar year 1936:

On and for December 31, 1936, a lump sum equal to nine-tenths (9/10) of one per centum (1%) of the annual payroll of each employer for the calendar year 1936; provided, however, that the actual payment of such lump sum may be deferred by permission of the Commission, to a date not later than January 15, 1937.

PERIOD, ELECTION, AND TERMINATION OF EMPLOYER'S COVERAGE

§ 8. (a) Any employment unit which is or becomes an employer subject to this Act within any calendar year shall be subject to this Act during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this Act only as of the first day of January of any calendar year, if it files with the Commission, prior to the fifth day of January of such year, a written application for termination of coverage, and the Commission finds that there were no twenty different weeks within the preceding calendar year, within which such employing unit employed four or more individuals in employment subject to this Act. For the purpose of this subsection, the two or more employing units mentioned in paragraph (2) or (3) or (4) of Section 19(f) shall be treated as a single employing unit.

(c) An employing unit, not otherwise subject to this Act, which files with the Commission its written election to become an employer subject hereto for not less than two calendar years, shall with the written approval of such election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first of January, it has filed with the Commission a written notice to that effect.

UNEMPLOYMENT COMPENSATION FUND

§ 9. (a) *Establsihment and Control.* There is hereby established a special fund to be known as the Unemployment Compensation Fund, which shall be administered separate and apart from all public monies or funds of the State. This fund shall consist of all contributions and monies paid into or received by it for the payment of benefits; of any property or securities acquired through the use of monies belonging to the fund, and of interest earned upon any monies paid into or received by it. Subject to the provisions of this Act, the Commission is vested hereby with full power, authority and jurisdiction over the fund, including all monies and property or securities belonging thereto, and may perform any and all acts, whether or not herein specifically designated, which are necessary or convenient in the administration thereof consistent with the provisions of this Act.

(b) *Withdrawals.* The fund shall be administered exclusively for the purposes of this Act, and monies withdrawn therefrom, except for deposit in the Unemployment Trust Fund as provided in this Act, shall be used solely for the payment of benefits. Payment of benefits shall be made in accordance with the rules prescribed by the Commission and the Department of Finance consistent with the provisions of this Act. Withdrawals from the fund shall not be subject to any

provisions of law requiring specific appropriations or other formal release by state officers of monies in their custody, except that all vouchers drawn on the fund shall be approved in writing by the Commissioner of Finance.

(c) *Collection, Deposit and Investment.* The State Treasurer shall be ex-officio the treasurer and custodian of the fund. He shall administer the fund in accordance with the provisions of this Act and the directions of the Commission and shall pay all vouchers approved by the Department of Finance and drawn upon the fund in accordance with such rules as the Commission may prescribe. All contributions, upon receipt thereof by the Commission, shall be forwarded to the State Treasurer, who shall immediately deposit them, together with any monies earned thereby while in his custody, and any other monies received by him for the payment of benefits from any source other than the Unemployment Trust Fund, with the Secretary of the Treasury of the United States of America, to the credit of the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this State relating to the deposit, adminstration, release or disbursement of monies in the possession or custody of the State or monies deposited in any fund created by the State to the contrary notwithstanding. All monies belonging to the Unemployment Compensation Fund, and not otherwise deposited, invested or paid over pursuant to the provisions of this Act, may be deposited by the State Treasurer under the direction of the Department of Finance in any banks or public depositories in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of monies in the Unemployment Compensation Fund, any other provisions of the law to the contrary notwithstanding. The State Treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount to be fixed by the Com-

mission and approved by the Governor, and in a form prescribed by law and approved by the Attorney General. Premiums for the said bond shall be paid as provided in Section 13 of this Act.

(d) *Withdrawal of Fund for Payment of Benefits.* The Commission through the State Treasurer acting as its fiscal agent shall requisition from time to time from the Unemployment Trust Fund such amounts, not exceeding the amount standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period, but for no other purpose. Upon receipt thereof the State Treasurer shall deposit such monies in the Unemployment Compensation Fund in a special benefit account, and shall issue his vouchers for the payment of benefits. All vouchers issued by the State Treasurer for the payment of benefits shall bear the signature of the State Treasurer and the approval in writing of the Commissioner of Finance. Any balance of monies so requisitioned which remains unclaimed or unpaid in the special benefit account to the Unemployment Compensation Fund after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of the Unemployment Trust Fund, as provided in subsection (c) of this section.

(e) *Management of Funds upon Discontinuance of Unemployment Trust Fund.* The provisions of subsections (a), (b), (c), and (d) to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the

earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all monies, properties or securities therein, belonging to the Unemployment Compensation Fund of this State shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit and release such monies, properties or securities in a manner approved by the Commission and the Department of Finance, in accordance with the provisions of this Act, provided that such monies shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The State Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission and the Department of Finance.

(f) *Reserve Accounts for the Employees of Each Employer.* There shall be credited to an employer's reserve account five-sixths (5/6) of all amounts contributed to the fund by each employer and by his employees. The remaining one-sixth (1/6) shall be credited to the pooled account as provided in subsection (h) hereof.

(g) *Joint Accounts.* Whenever two or more employers file an application with the Commission to mingle their single reserve accounts in a joint reserve account, as if they constituted a single employer, the Commission shall maintain such joint account as if it were a single account, subject to such general rules for the establishment, conduct and dissolution of joint accounts as the Commission may prescribe.

(h) *Pooled Account in the Unemployment Compensation Fund.* In addition to the separate or joint reserve accounts,

provided in subsections (f) and (g), there shall be maintained within the Fund a pooled account mingled and undivided. There shall be credited immediately to such pooled account one-sixth of all contributions required under this Act, and there shall be credited thereto any balance remaining to the credit of the reserve account of an employer two years after the employer has ceased to be subject to the provisions of this Act, except as otherwise provided in subsection (j) of this section, and all realized earnings and gains of the Fund and charged thereto all losses of the Fund.

(i) *Voluntary Contributions by Employers.* Any employer may at any time make voluntary payments, additional to the contributions required under this Act, to his reserve account, pursuant to the general rules established by the Commission.

(j) *Successive Employer's Reserve Account.* Any employing unit which acquires its organization, trade or business in whole or in part from an employer for whom a reserve account has been maintained by the Commission as herein provided, shall immediately notify the Commission thereof, and shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such acquisition as determined for the purposes of this Act by the Commission after appropriate notice and opportunity to be heard, as if no change with respect to such employer's reserve account had occurred.

(k) *Payment from Reserve Account.* The liability of each employer's reserve account shall be limited to the amount therein and to the payment of benefits based solely upon weeks of employment by such employer. Benefits chargeable against an employer's reserve account shall either all be paid in full, or shall be reduced at the same proportionate rate, in accordance with the following requirement whenever the current resources of an employer's reserve account, including contributions payable thereto but unpaid, and excluding a sum

sufficient to pay all benefits potentially payable under pending claims with respect to unemployment occurring prior to such weeks, are less than the total sum of all benefits payable from such account with respect to unemployment occurring in such week, then all benefits payable from such account with respect to unemployment occurring in such week shall be proportionately reduced and paid irrespective of the weekly benefit amount that would otherwise be applicable, or if such current resources of such account are completely exhausted, no benefits shall be chargeable against such account with respect to such week. Any benefits paid in accordance with the foregoing requirements shall be charged against the recipient's weeks of employment in accordance with the provisions of Section 3 of this Act and the employer's reserve account chargeable therewith, and the Unemployment Compensation Fund, shall be deemed to have satisfied their entire liability with respect thereto, but such benefit payments, as well as benefits due but not payable because of the complete exhaustion of an employer's reserve account may be supplemented as provided in subsection (1) of this section.

(l) *Payment from Pooled Account.* Benefits shall be charged against the pooled account only if and to the extent that an employer's reserve account does not equal the maximum amount of benefits then due and chargeable against such account as provided in this Act. To the extent that monies in the pooled account are sufficient therefor, the Commission shall supplement any reduced benefits payable pursuant to subsection (k) of this section or any benefits due but not payable because of the complete exhaustion of an employer's reserve account, by the amount necessary to pay all individuals to whom reduced benefits are so payable, or to whom benefits are so due but not payable, with respect to any week pursuant to that subsection, aggregate benefits so far as practicable, equal to the same proportion of the maximum benefits that would otherwise be due to each such individual with respect to

such week. Benefits paid or supplemented from the fund's pooled account shall be charged against the recipient's weeks of employment in accordance with the provisions of Section 3 of this Act.

ADMINISTRATIVE ORGANIZATION

§ 10. (a) There is hereby created in the Department of industrial Relations a Division to be known as the Division of Unemployment Compensation, which shall be administered by a Director and two associate directors composing a board to be known as the Unemployment Compensation Commission, and a Division known as the Kentucky State Employment Service, created pursuant to Section 12 of this Act.

The Director of Unemployment Compensation and the associate directors shall be appointed by the Governor; the Director shall be appointed as a distinterested representative of the State and the public, and shall be *ex officio* Chairman of the Commission; one associate director shall be appointed as a representative of labor and one associate director shall be appointed as a representative of employers. These appointments shall be made for terms not to exceed four years on the basis of their merit and fitness to perform the duties and exercise the responsibilities of their respective offices, and shall serve at the pleasure of the Governor.

Every member so appointed shall serve until his successor is appointed and qualified, and any appointment to a vacancy shall be for the unexpired term in question.

The Kentucky State Employment Service shall be administered by a full-time salaried Director who shall be appointed by the Governor and shall be subject to the supervision and direction of the Commisioner of Industrial Relations.

Each division shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budget, and duties,

except insofar as the Commissioner of Industrial Relations may find that such separation in the local offices is impracticable because of the small size of the territory served or of the volume of work performed. The Commissioner of Industrial Relations is authorized to prescribe the duties of the Director of the Kentucky State Employment Service in accordance with the provisions of Section 12 of this Act. No Director of the Kentucky State Employment service or Director, Division of Unemployment Compensation shall, during his term of office, engage in any other business, vocation or employment and no Director or associate director shall, during his term of office serve as an officer or committee member of any political party organization.

(b) *Salaries.*

Because of increased and added responsibilties devolving upon the Commissioner of Industrial Relations, by virtue of the enactment of this measure, the salary of the Commissioner is hereby authorized to be increased from Four Thousand Dollars per annum, as previously provided, to a sum not exceeding Five Thousand Dollars per annum to be fixed by the Governor. The Director, Division of Unemployment Compensation, shall be paid from the Unemployment Compensation Administration Fund a fixed salary at a rate to be fixed by the Governor and the Social Security Board, not to exceed five thousand dollars per annum, plus necessary expenses, and shall devote his full time to the duties of his office. Each associate director representing labor or employers shall be paid from the Unemployment Compensation Administration Fund fees at the rate of twenty dollars per day plus necessary expenses while engaged in the discharge of his official duties, not exceeding total fees of three thousand dollars for any year of service.

ADMINISTRATION

§ 11. (a) *Duties and Powers of the Commission.* It shall be the duty of the Unemployment Compensation Commission

to administer this Act; and it shall have power and authority to adopt, amend or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon approval by the Commissioner of Industrial Relations and upon publication in the manner, not inconsistent with the provisions of this Act, which the Commissioner shall prescribe. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Act, and shall have an official seal which shall be judicially noticed. Not later than the first day of February of each year, the Commission shall submit to the Governor a report covering the adminstration and operation of this Act during the preceding calendar year and shall make such recommendations for amendments to this Act as the Commission deems proper. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and make recommendations with respect thereto.

(b) *Regulations and General and Special Rules.* General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after approval by the Commissioner of Industrial Relations and filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commission and shall become effective in the manner and at the time prescribed by the Commission.

(c) *Publication.* The Commission shall cause to be

printed for distribution to the public the text of this Act, the Commission's general rules and its annual reports to the Governor, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) *Personnel.* Subject to other provisions of this Act, the Commission is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of duties. All positions shall be filled by persons selected and appointed on a non-partisan merit basis. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may by written orders, delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this Act, and may in its discretion bond any person handling monies or signing checks hereunder.

(e) *Advisory Councils.* The Commission shall appoint a State Advisory Conucil and local Advisory Councils, composed in each case of equal numbers of employers and representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment or affiliations, and of such members representing the general public as the Commission may designate. Such councils shall aid the Commission in formulating policies and discussing problems related to the administration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

(f) *Employment Stabilization.* The Unemployment Compensation Commission and the Director, Kentucky State Employment Service, with the advice and aid of the advisory councils, and through the proper division, shall take all appro-

priate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, restraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation by municipalities, counties, school districts and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible and to these ends to carry on and publish the results of investigation and research studies.

(g) *Records and Reports.* Each employing unit shall keep true and accurate employment records of all persons employed by it, and of the hours worked for it by each and of the wages paid by it to each such person, and such other information as may be deemed necessary by the Commission to the proper administration of this Act. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require any employing unit to furnish it from time to time information concerning the total amount of wages paid, total number of persons employed, and an individual record of each new person employed and an individual record of each person whose employment has been terminated or who has been laid off, and of each person employed part time entitled to benefits, and other related matters which the Commission deems necessary to the effective administration of this Act. Information thus obtained shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity, but any claimant at a hearing before the Commission or its duly authorized representative shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee of the Department of Industrial Relations or other

State Department who violates any provision of this Section shall be deemed guilty of a misdemeanor and upon conviction be fined not less than Twenty Dollars nor more than Two Hundred Dollars, or imprisoned for not longer than ninety days, or both.

(h) *State-Federal Cooperation.* In the administration of this Act, the Commission shall cooperate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports in such form and containing such information as the Social Security Board, may, from time to time, require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the adminstration of this Act.

Upon request therefor the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act.

(i) *Study of Partial Unemployment.* The Governor shall appoint a committee of three members who shall make a study of partial unemployment in this State and prior to November 1, 1937, shall make recommendations to the Commission with respect to the inclusion in this Act of provision for the payment of benefits for partial unemployment. Such committee shall consist of one member representative of employees, one member representative of employers, and one impartial person who shall be chairman. Not later than December 1, 1937, the Commission shall transmit the report and

recommendations of the committee, together with its comments thereon and recommendations to the Governor.

EMPLOYMENT SERVICE

§ 12. (a) *Kentucky State Employment Service.* The Commissioner of Industrial Relations shall create a division to be known as the Kentucky State Employment Service which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purpose of performing such duties as are within the purview of the Act of Congress, entitled "An Act to provide for the establishment of a national employment service and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (48 Stat. 113, U. S. Code, Title 29, Section 49 (c), as amended. Any existing free public employment offices maintained by the State but not heretofore under the jurisdiction of the Commissioner of Industrial Relations shall be immediately transferred to the jurisdiction of such division, and upon such transfer all duties and powers conferred upon any other department, agency, or officer of this State relating to the establishment, maintenance and operation of free public employment offices shall be vested in said division. The said division shall be administered by a full-time salaried director, who shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended and to do and perform all things necessary to secure to this State the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this State, in conformity with Section 4 of said Act, and this State will observe and comply with the requirements thereof. The Kentucky State Employment Service is hereby designated and

constituted the agency of this State for the purpose of said Act. The Director of the employment service division shall be paid a fixed monthly salary at a rate to be fixed by the Governor and the Director of the United States Employment Service not to exceed Four Thousand Five Hundred Dollars per annum. The Governor is directed to appoint the Derector and the Director is authorized to appoint the other officers and employees of the Kentucky State Employment Service, subject to the prior approval in writing of the Commissioner of Industrial Relations. All such appointments shall be made in accordance with regulations prescribed by the Director of the United States Employment Service.

(b) *Financing.* All monies received by this State under the said Act of Congress, as amended, shall be paid into the special "employment service account" in the Unemployment Compensation Administration Fund, and said monies are hereby made available to the Kentucky State Employment Service to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, said division is authorized to enter into agreements with any political subdivision of this State or any of its municipalities or with any private, non-profit organization, and as a part of any agreement the Director of the Kentucky State Employment Service may accept monies, services, or quarters as a contribution to the employment service account.

UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

§ 13. (a) *Special Fund.* There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All monies which are deposited or paid into this fund are hereby appropriated and made available to the unemployment compensation and employment service divisions. All monies in this fund shall be expended solely for the purpose of defraying the cost of the

administration of this Act, and for no other purpose whatsoever. The fund shall consist of all monies appropriated by this State, and all monies received from the United States of America, or any agency thereof, including the Social Security Board and the United States Employment Service, or from any other source, for such purpose. All fines and penalties collected pursuant to the administration of this Act are hereby appropriated to and shall be paid into this fund. All monies in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balance in this fund shall not lapse at any time but shall be continuously available to the unemployment compensation and employment service divisions of the Department of Industrial Relations, for expenditures consistent with this Act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the Commission and approved by the Governor and in a form prescribed by law and approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the treasurer of the Unemployment Compensation Fund under Section 9 of this Act, shall be paid from the monies in the Unemployment Compensation Administration Fund.

(b) *Employment Service Account.* A special "employment service account" shall be maintained as a part of the Unemployment Compensation Administration Fund for the purpose of maintaining the public employment offices established pursuant to Section 12 of this Act and for the purpose of cooperating with the United States Employment Service. There is hereby appropriated to the employment service account of the Unemployment Compensation Administration Fund, from any money in the State Treasury not otherwise

appropriated, for the fiscal year ending June 30, 1937, the sum of Sixteen Thousand Dollars and for the fiscal year ending June 30, 1938, the sum of Twenty Thousand Dollars. In addition, there shall be paid into such account the monies designated in Section 12(b) of this Act, and such monies as are apportioned for the purposes of this account from any monies received by this State under Title III of the Social Security Act, as amended.

COLLECTION OF CONTRIBUTIONS

§ 14. (a) *Penalties on Past Due Contributions.* Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall be subject to a penalty at the rate of one per centum per month from and after such date until payment plus accrued penalties is received by the fund, provided that the Commission may prescribe fair and reasonable general rules pursuant to which such penalties shall not accrue during the first calendar year that any employer is subject to this Act. Penalties collected pursuant to this subsection shall be paid into the fund's pooled account.

(b) *Collection.* If, after due notice, any employer default in any payment of contributions or penalties thereon, the amount due shall be collected by civil action in the name of the State, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or penalties thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this Act and cases arising under the Workmen's Compensation Law of this State.

(c) *Priorities under Legal Dissolutions or Distributions.* In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State,

including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contribution then or thereafter due shall be paid in full prior to all other claims except taxes but on a parity with claims for wages of not more than Two Hundred and Fifty Dollars to each claimant, earned within six months of the commencement of the proceeding, and prior awards of compensation under the Workman's Compensation Act of this State. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898 as amended, contributions then or thereafter due shall be entitled to such priority as is provided in Section 64(b) of that Act (U. S. Code, Title II, Section 104(b), as amended.)

PROTECTION OF RIGHTS AND BENEFITS

§ 15. (a) *Waiver of Rights Void.* No agreement by an individual to waive, release or commute his rights to benefits or any other rights under this Act shall be valid. No agreement by an employee or by employees to pay all or any portion of an employer's contributions, required under this Act from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver by an employee of any right hereunder. Any employer or officer or agent of an employer who violates any provision of this subsection shall be deemed guilty of a misdemeanor and upon conviction shall for each offense, be fined not less than One Hundred Dollars nor more than One Thousand Dollars, or be imprisoned for not more than six months or both.

(b) *Limitation of Fees.* No employee shall be charged fees of any kind in any proceeding under this Act by the Commission or its representatives. Any individual claiming benefits in any proceeding before the Commission, or a court may be represented by counsel or other duly authorized agent; but

no such counsel or agent shall either charge or receive for such service more than an amount approved by the Commission. Any person who violates any provision of this subsection shall be deemed guilty of a misdemeanor and, upon conviction shall for each such offense, be fined not less than Fifty Dollars nor more than Five Hundred Dollars or imprisoned for not more than six months, or both.

(c) *No Assignment of Benefits, Exemptions.* No assignment pledge or encumbrance of any right to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipnished to such individual or his spouse or dependents during lection of all debts except debts incurred for necessaries furients, shall be exempt from any remedy whatsoever for the colthe time when such individual was employed. No waiver of any exemption provided for in this subsection shall be valid.

PENALTIES

§ 16. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this Act, either for himself or for any other person, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the pay-

ment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject thereto or to avoid or reduce any contribution or other payment required from an employing unit under this Act, or who willfully fails or refuses to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) Any person who shall willfully violate any provision of this Act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a specific penalty is neither prescribed herein nor provided by any other applicable statute, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the non-disclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this Act while any conditions for the receipt of benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall be liable to repay to the Commission for the Unemployment Compensation Fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in Section 14(b) of this Act for the collection of past due contributions.

REPRESENTATION IN COURT

§ 17. (a) In any civil action to enforce the provisions of this Act the Commission and the State may be represented by any qualified attorney who is designated by the Governor for this purpose or at the Commission's request, by the Attorney General. In case the Governor designates special counsel to defend, on behalf of the State, the validity of this Act, the expenses and compensation of such special counsel and of any experts employed by the Commission in connection with such proceeding, may be charged to the Unemployment Compensation Administration Fund.

(b) All criminal actions for violation of any provision of this Act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the Attorney General of the State; or, at his request and under his direction, by the prosecuting attorney, of any county in which the employer has a place of business or the violator resides.

NON-LIABILITY OF STATE

§ 18. Benefits shall be deemed to be due and payable under this Act only to the extent provided in this Act and to the extent the monies are available therefor to the credit of the Unemployment Compensation Fund and neither the State nor the Division of Unemployment Compensation shall be liable for any amount in excess of such sums.

DEFINITIONS

§ 19. As used in this Act, unless the context clearly requires otherwise:

(a) "Annual Payroll" means the total amount of wages payable by an employer (regardless of the time of payment), for employment during a calendar year.

(b) "Benefits" means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

(c) "Commission" shall mean the Unemployment Compensation Commission of the Division of Unemployment Compensation of the Department of Industrial Relations.

Be it provided, however, that wherever the term "Commission" is used to denote the authority required under this Act to perform administrative or ministerial functions, it shall be construed to mean the Director of Unemployment Compensation who sits *ex officio* as the Chairman of the Unemployment Compensation Commission instead of the Commission composed of three members.

The administrative or ministerial functions shall be construed to include the routine of operating and managing the activities incident to the handling of records, reports, files, correspondence, the employment of personnel and the management of same, the conduct of negotiations with employers, employees, and co-operation with the Social Security Board authorized hereunder and all such functions of a similar nature but administration and/or ministerial functions shall not be construed to include the adjudication of any disputed claims or appeals or any similar matters of a quasi-judicial nature nor the adoption, amendment, rescission or promulgation of general, special rules, or regulations of general application, except that as to regulations the Director may promulgate the same where the exigencies of the situation in his judgment require their immediate promulgation.

(d) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by this Act.

(e) "Employing Unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals

performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all purposes of this Act.

(f) "Employer" means:

(1) Any employing unit which in each of twenty different weeks within either the current or the preceding calendar year (whether or not such weeks are or were consecutive) has or had in employment, four or more individuals (*not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week*);

(2) Any employing unit which acquired its organization trade or business, or substantially all the assets thereof from another which at the time of such acquisition was an employer subject to this Act;

(3) Any employing unit which acquired its organization trade or business, or substantially all the assets thereof from another employing unit and which, if treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which, having become an employer under paragraph (1), (2), or (3), has not under Section 8 ceased to be an employer subject to this Act; or

(5) For the effective period of its election pursuant to Section 8(c) any other employing unit which has elected to become fully subject to this Act.

(g) "Employment" means service, including service in interstate commerce, performed for wages or under any contract of hire written or oral, express or implied; in which the relationship of the individual performing such service and the employing unit for whom such services are rendered is, as to those services, the legal relationship of employer and employee, which service: (1) is performed in this State by an individual; or (2) is performed elsewhere, but is incidental

to such service in this State, provided contributions are not required and paid with respect to such services performed elsewhere under an Unemployment Compensation Law of any other State; or (3) is performed under a contract of hire made in this State for an enterprise located in this State, under which contract some service is performed in this State, provided that with respect to service performed without this State under such contract of hire, contributions are not required and paid under an employment Compensation Law of any other State; but the term shall not include:

(1) Service performed in this State incidental to service performed elsewhere, with respect to which services performed in this State, contributions are required and paid under an Unemployment Compensation Law of any other State;

(2) Service performed in the employ of this State, or of any political subdivision thereof or of any of its municipalities, or of any instrumentality in this State or its political subdivisions or its municipalities;

(3) Service performed in the employ of any other State or its political subdivision, or of the United States Government, or of an instrumentality of any other State or States or their political subdivisions or of the United States;

(4) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the Commission is hereby authorized and directed to enter into agreements which agreements shall become effective ten days after publication thereof in the manner provided in Section 11(b) of this Act, for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensa-

tion under such Act of Congress, acquired rights to benefits under this Act;

(5) Agricultural labor;

(6) Domestic Service in a private home;

(7) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(8) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(9) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(10) Service performed by those engaged as solicitors or agents for insurance companies.

(h) "Reserve Account" means a separate reserve account maintained by the Commission in the Unemployment Compensation Fund for each employer or group of employers in accordance with the provisions of this Act from which benefits are payable only with respect to the employment of individuals who are, or were, in the employ of such employer.

(i) "Employment Office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State-controlled system of public employment offices.

(j) "Fund" means the Unemployment Compensation Fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(k) "State" includes in addition to the United States of America, Alaska, Hawaii and the District of Columbia.

(l) "Total Unemployment". An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to him.

(m) "Unemployment Compensation Administration Fund" means the Unemployment Compensation Administration established by this Act, from which administrative expenses under this Act shall be paid.

(n) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable average amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commission. Amounts paid to traveling salesmen or other employees as allowance or reimbursement for traveling or other expenses incurred in the business of the employer constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee.

(o) "Week" means calendar week, ending at midnight Saturday, or the equivalent thereof, as determined in accordance with general rules of the Commission, provided that prior to the approval of any general rules the Commission finds that such rule will be fair and reasonable with respect to all affected parties.

(p) "Weekly Benefit Amount". An individual's "weekly benefit amount" with respect to any particular week of total unemployment means the amount of benefits he would be entitled to receive for such week, if totally unemployed and eligible which amount is determined by his full-time weekly wage from the employer or employers against whose weeks

of employment of such individual, such benefits are then chargeable as provided in this Act.

(q) "Week of Employment" by an employer, except as otherwise provided in this Act, means each week occurring after December 31, 1936, and after such employer has become subject under Section 19(f) of this Act, within the individual performs the plurality of his total hours of employment for employers, in employment for such employer, but does not include any week in which the plurality of such individual's total working hours is performed without this State, with respect to which plurality of total working hours, contributions are required and paid under an Unemployment Compensation Law of some other State, or compensation is payable under an Unemployment Compensation Law of the United States.

(r) "Employee" means any person, including aliens and minors, employed for hire by an employer in an employment subject to this Act, except any person employed at other than manual labor at a rate of more than Twenty-Six Hundred Dollars a year or more than Ffty Dollars a week.

§ 20. *Saving Clause.*

The General Assembly reserves the right to amend or repeal all or any part of this Act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Act or by Acts done pursuant thereto shall exist subject to the power of the General Assembly to amend or repeal this Act at any time.

In the event that the Social Security Board does not, for any fiscal year, make the certification for payment to the State of Kentucky of funds for the assistance of this State in the administration of this Act, as provided by Title III of the Federal Social Security Act, or any amendments thereto, every employer subject to this Act shall, for such fiscal year, pay to the Unemployment Compensation Administration

Fund, to be used for the administration of this Act, contributions equal to ten per centum of such employer's contributions for the same period for payment of benefits under this Act, such additional contributions being collected in the same manner as contributions for the payment of benefits.

SEPARABILITY OF PROVISIONS

§ 21. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be effected thereby.

REPEALER

§ 22. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

CONCURRENT WITH FEDERAL ACT

§ 23. If the tax imposed by Title IX of the Federal Social Security Act or any amendment thereto, or any other Federal tax against which contributions under this Act may be credited shall for any cause become inoperative, the provisions of this Act, by virtue of that fact shall likewise become inoperative, and any unobligated funds in the State Unemployment Compensation Fund or returned by the United States Treasurer because such Federal Social Security Act is inoperative, shall be refunded to the contributors proportionately to their unexpended contributions under the regulations of the Commission.

DECLARATION OF AN EMERGENCY

§ 24. Whereas, it becomes necessary to enact an Unemployment Compensation Act in Kentucky before the expiration of the calendar year, 1936, in order to conserve to the citizens of the Commonwealth of Kentucky, the benefits of the contributions exacted from Kentucky employers under

the Social Security Act, passed by the United States Congress of 1935, an emergency is hereby declared to exist and this Act shall become a law and be effective upon its approval by the Governor.

By Mr. Hunnicutt:

H. B. 2. An Act exempting building and loan associations organized under the laws of this State and under the laws of the United States from the payment of income tax upon the entire net income of such corporations.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That building and loan associations organized under the laws of this State are hereby exempt from the payment of income tax upon the entire net income derived from business done, property located or sources in this State, for the year 1936 and thereafter.

All laws or parts of laws in conflict herewith are hereby repealed of such conflict.

By Mr. Ward:

H. B. 3. An Act relating to non-profit cooperative corporations and providing, but not by way of limitation, for the formation, operation, consolidation, and dissolution of non-profit cooperative corporations to be known as "Rural Electric Cooperative Corporations" for the purpose of manufacturing, purchasing, selling, distributing, and encouraging the fullest use of electric energy in the Commonwealth of Kentucky and for the purpose of making electric energy, services, and appliances and property operated by electricity available to the inhabitants of

rural areas in the Commonwealth of Kentucky at the lowest cost consistent with sound business methods and prudent management; and providing for the rights, powers and duties of such corporations; and providing for the government of such corporations; and providing for the issuance of stock and membership in and by such corporations; and providing for the issuance of obligations by such corporations; and providing for the number of persons that may organize such corporations and the form of the articles of incorporation and the corporate charter and the respective fees therefor; and providing that said corporations may use a corporate seal, sue and be sued, contract and be contracted with and purchase and hold property, real and personal, as may be proper and necessary for carrying on its legitimate business, and mortgage, sell or lease same; and providing that said corporations may receive property, including cash, and may charge fees, rates, tolls, or rentals for energy, services or appliances and property; and providing for the issuance of stocks or bonds or memberships and the purchase of corporate stock by said corporations; and providing for the transfer of stock and the payment of patronage dividends; and providing that stockholders or members shall not be liable for the debts of the corporations; and providing for penalties for refusal to supply electric energy to said corporations; and exempting said corporations from all state, county, municipal or local taxation other than an annual tax of $10.00 on each corporation formed hereunder; and providing that such corporations shall be subject to the general supervision of the Public Service Commission of Kentucky; and exempting said corporations and the securities issued by them from the Act of March 23, 1926, known as the "Blue Sky Law," together with all amendments thereto; and conferring upon said corporations the power of eminent domain; and providing that if any provision of this act is held invalid, it shall not affect the other provisions hereof; and repealing any and all Acts or parts of

Acts and any and all laws or parts of laws in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Asesmbly of the Commonwealth of Kentucky:

§ 1. This Act may be known, cited and referred to as the "Rural Electric Cooperative Corporation Act."

§ 2. The following terms whenever used or referred to in this Act shall have the following meanings, unless a different meaning clearly appears from the context:

(a) "Municipality" shall mean any county, city, town or village or municipal corporation of any and every class in the Commonwealth of Kentucky, including any political subdivision of the Commonwealth of Kentucky.

(b) "Person" or "Inhabitant" shall mean and include natural persons, firms, associations, corporations, business trusts, partnerships and bodies politic and carporate.

(c) "Energy" shall mean and include any and all electric energy no matter where or how generated, produced, transmitted or conveyed.

(d) "System" shall mean and include any plant, works, systems, facilities and properties (including poles, wires, stations, transformers, and any and all equipment and machinery), together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission or distribution of energy.

(e) "Obligations" shall mean and include negotiable bonds, notes, debentures, interim certificates or receipts and all other evidences of indebtedness either issued or the payment thereof assumed by a corporation organized under this Act.

(f) "Federal Agency" shall mean and include, but not by way of limitation, the United States of America, the President of the United States of America, the Federal Emergency

Administrator of Public Works, the Rural Electrification Administration, The Tennessee Valley Authority, the Farm Credit Administration, the Central Bank for Cooperatives, any district bank for cooperatives formed under that Act of Congress known as the Farm Credit Act of 1933 (and any amendment thereto) including any successor to any existing bank for cooperatives, and any and all other authorities, agencies and instrumentalities of the United States of America, heretofore or hereafter created, by whatsoever title designated.

(g) "Acquire" shall mean and include construct, acquire by purchase, by lease, devise, gift or the exercise of the right of eminent domain in the manner now or hereafter provided by law for the exercise thereof and acquisition by any other mode.

(h) "Improve" shall mean and include construct, reconstruct, improve, extend, enlarge, alter, better and repair.

(i) "Board" shall mean the board of directors of a corporation formed under this Act.

(j) "Member" shall mean and include each person signing the articles of incorporation of a corporation formed under this Act and each person admitted to membership therein pursuant to law or its articles of incorporation or by-laws. "Member" shall also mean and include a common stockholder in a corporation formed and organized hereunder having capital stock.

§ 3. Any number of natural persons, not less than five, a majority of whom are citizens of the Commonwealth of Kentucky, may, by executing, filing and recording articles of incorporation as herinafter provided, form and become a cooperative corporation not organized for pecuniary profit for the purpose of

(a) Promoting and encouraging the fullest possible use of electric energy in the Commonwealth of Kentucky by

(i) Making electric energy available by production,

transmission or distribution, or both, to or by otherwise securing the same for the inhabitants of and persons in rural areas of the Commonwealth of Kentucky at the lowest cost consistent with sound business methods and prudent management of the business of such corporations, and

(ii) By making available electrical devices, equipment, wiring, appliances, fixtures and supplies and all kinds of tools, equipment and machinery (including any fixtures or property or both which may by its use be conductive to a more complete use of electricity or electric energy) operated by electricity or electric energy to the inhabitants of and persons in rural areas of the Commonwealth of Kentucky at the lowest cost consistent with sound business methods and prudent management of the business of such corporations, or

(b) Promoting and encouragigng the fullest possible use of electric energy in the Commonwealth of Kentucky by

(i) Making electric energy available to the inhabitants of and persons in rural areas of the Commonwealth of Kentucky at the lowest cost consistent with sound business methods and prudent management by producing, transmitting, distributing, or furnishing, or both, electric energy to any corporation formed under and for the purposes provided by subsection (a) of Section 3 of this Act and only to such corporations, and

(ii) By making available to any corporation formed under and for the purposes provided by subsection (a) of Section 3 of this Act and only to such corporations, all kinds of electrical devices, equipment, wiring, appliances, fixtures and supplies and all kinds of tools, equipment and machinery (including any fixtures or property or both which may by its use be conductive to a more complete use of electricity or electric energy) operated by electricity or electric energy, any accounting services, forms and supplies, bargaining services, business counsel and advice, engineering services, supervisory services, investment counsel, general purchasing services

of all kinds, and any other service or services which may be requested, deemed advisable or desirable in the conduct of its business by any corporation formed under and for the purposes provided by subsection (a) of Section 3 of this Act, provided that any corporation organized under this Act may be organized to do either, any or all of the acts set forth in subsection (b) of this section.

§ 4. The articles of incorporation shall be entitled and endorsed "Articles of Incorporation of ..... Rural Electric Cooperative Corporation" (blank space being filled in with the distinguishing part of the name of the corporation) and shall state and set forth:

a. The name of the corporation, which name shall be such as to distinguish it from any other corporation.

b. The purpose or purposes for which it is formed.

c. The place, including the county, where its principal office will be located.

d. A reasonable description of the territory in which its operations are to be conducted.

e. The number of directors which shall be not less than five.

f. The names and post office addresses of the directors, not less than five, who are to manage the affairs of the corporation the first year of its existence, or until the finst annual meeting or other meeting called to elect directors and/or until their successors are elected and qualified.

g. The period, if any, limited for the duration of the corporation. If the duration of the corporation is to be perpetual, this fact shall be stated.

h. (i) If organized without capital stock, the terms and conditions upon which members may be admitted to membership and the terms and conditions upon which such membership shall cease and terminate. The property rights and interests of each member in a corporation formed under this Act without capital stock shall be equal.

(ii) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof.

The capital stock may be divided into preferred and common stock. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and definite extent of the preference and privileges granted to each.

i. The articles of incorporation of a corporation formed under this Act may also contain any lawful provision which the incorporators may choose to insert for the purpose of the regulation of the buisness of such corporation and for the conduct of the affairs of such corporation and/or for the purpose of defining, limiting, and/or regulating the exercise of the powers of the coropration, of the board of directors of the corporation and of the members of the corporation. The articles of incorporation may also contain any provisions, not inconsistent herewith, creating, defining, limiting, regulating the rights and powers, and likewise the duties of the corporation, its directors and members. The articles of incorporation may also contain any provision, not inconsistent with the provisions hereof, for the purpose of creating or defining the rights and privileges of the members of such corporation among themselves.

j. Neither the incorporators nor any member of any corporation formed under this Act shall be personally responsible for any debt, obligation or liability of such corporation, except for promissory notes given for the purchase of common stock in the corporation.

§ 5. The articles of incorporation shall be executed in quadruplicate by the incorporators and each copy shall be acknowledged by each of the incorporators before a notary public or any officer authorized by the laws of the Commonwealth of Kentucky to take acknowledgments of deeds. When

so acknowledged, the four copies of the articles of incorporation, together with the certificate of acknowledgment, shall be filed in the office of the Secretary of State, who, if he shall find the same legal and valid, shall forthwith indorse his approval on each of the said four copies, retain, record and file one of said copies in his office, delivering the other three copies thereof with his approval indorsed thereon to the incorporators. The incorporators upon the receipt of said approved copies, shall thereupon file one of the said approved copies of said articles of incorporation in the office of the county court clerk in the county wherein is to be located the principal office of said corporation and one of the said approved copies of said articles of incorporation with the Dean of the College of Agriculture of the University of Kentucky. As soon as the Secretary of State shall have approved the articles of incorporation and indorsed his approval thereon, the proposed corporation described in the articles of incorporation so filed, shall, under its designated name, be and constitute a body politic and corporate and shall thereupon be fully authorized to transact business in its corporate name.

§ 6. Any corporation created under the provisions of this act shall have the legal power and capacity to perform any act not repugnant to law and shall have the express power and capacity to do any and all acts or things necessary or convenient for the carrying out of the purposes for which it is formed, including, but not by way of limitation, the following powers:

1. To sue and be sued, and to contract and be contracted with.

2. To adopt, use and at will alter a common seal, but failure to affix a seal shall not affect the validity of any instrument.

3. To acquire, hold and dispose of property, real and personal, tangible and intangible necessary or incident to the proper conduct of its business, including preferred or com-

mon stock or both of other corporations whether formed under this Act or not, or interests therein and to pay therefor in cash, property or on credit, or both, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as its board of directors may determine.

4. To construct, acquire, own, lease, operate, maintain and improve a system or systems as defined in Section 2 of this Act.

5. To pledge all or any part of its revenue or mortgage or otherwise encumber all or any part of its property and assets, real or personal, tangible or intangible, for the purpose of securing the payment of principal of and interest on any of its obligations.

6. In its corporate name, to have and exercise the right of eminent domain in the manner provided by the condemnation laws for acquiring private property for public use, such right to be paramount except as to property of the Commonwealth of Kentucky or any municipality.

7. To construct, own, lease, operate and control any and all works, lines, buildings and other facilities across, along or under any street or public highway, and over any lands which are now or may be the property of this Commonwealth or of any municipality in this Commonwealth. The corporation shall, however, restore any such street or highway to its former condition and state as nearly as may be possible and shall not use the same in a manner to impair unnecessarily its usefulness.

8. To accept gifts and/or grants of property, real or personal, including money, from any person, municipality or federal agency, or both, and the Commonwealth of Kentucky and to accept voluntary and uncompensated services.

9. To make any and all contracts necessary or convenient for the full exercise of the powers in this Act granted, including, without limiting the generality of the foregoing,

contracts with any person, including, but not by way of limitation, any federal agency or instrumentality, the Tennssee Valley Authority, any corporation formed under this Act, any cooperative association as defined in the Farm Credit Act of 1935, any municipality and/or the Commonwealth of Kentucky, including, but not by way of limitation, contracts for the purchase and sale of property of all kinds and character whatsover, for the purchase and sale of energy and/or for the purchase and/or use of electrical devices, equipment, appliances, fixtures and supplies of all kinds and/or all kinds of tools, equipment and machinery operated by electricity or electric energy and deemed desirable by the corporation for its use or the use of its members; any accounting services, forms and supplies, bargaining services, business counsel and advice, engineering services, supervisory services, investment counsel, general purchasing services of all kinds, and any other service or services which may be requested, deemed advisable or desirable in the conduct of its business by any corporation formed under and for the purposes provided by subsection (a) of Section 3 of this Act, for the management and conducting of the business of the corporation; for the fixing of rates, fees, or charges for service rendered or to be rendered by the corporation, subject, however, to the limitations provided in this Act as to the fixing of rates; for any other corporate purpose.

10. To sell, lease, mortgage and/or otherwise encumber or dispose of all or any of its property, as hereinafter provided.

11. To contract debts, borrow money without limitation as to the amount of corporate indebtedness or liability and to issue or assume the payment of obligations, and to secure the same by mortgage, pledge or otheriwse of its property and assets.

12. To fix and collect reasonable fees, rents, tolls and

other charges for services rendered subject to the limitations as to the reasonableness thereof as hereinafter provided.

13. To assist its members in wiring their premises for the use of electric energy and in purchasing electrical equipment, appliances and supplies and in the financing of such activities.

14. To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents and employees, or by contracts with any person, federal agency, corporation formed under this Act, cooperative association or municipality.

15. To do any and all things not herein specifically set forth which are or may reasonably be deemed necessary and proper for the accomplishment of the purposes of the corporation and which are not prohibited by law.

§ 7. No person, other than a corporation formed hereunder, shall at any time own more than five per cent (5%) of the outstanding common stock of a corporation formed under this Act with capital stock.

No common stockholder in any corporation formed under this Act, shall have more than one vote on any matter or subject regardless of the number of shares of stock owned or held by him. Preferred stockholders shall have no right to vote.

No corporation formed under this Act with capital stock, shall pay dividends on either its common stock or its preferred stock in an amount greater than eight (8) per centum per annum on each class of stock.

A corporation formed under this Act may own stock in any corporation formed under this Act and in any federal agency.

Only farmers or persons engaged in the production of any agricultural products, including livestock, corporations formed under this Act, and "cooperative associations" as defined in Section 12 of that Act of Congress known and cited

as the "Farm Credit Act of 1935," or any amendments thereto, can own common stock in any corporation formed under this Act with capital stock.

Neither the common stock in any corporation formed under this Act nor any interest therein, shall be transferable or assignable, either by act of the parties or by operation of the law, to any persons who is not eligible as herein provided to own said stock.

Anything herein to the contrary notwithstanding, any corporation formed under this Act may transact business with, furnish services, supply energy and sell property to the United States of America or any agency or instrumentality thereof, the Commonwealth of Kentucky or any municipality thereof, or any charitable, religious or eleemosynary institution although the same may not be a member of such corporation, and with and to other non-members provided, however, that at least seventy-five per cent (75%) of the business done shall be done by the corporation with its members.

No corporation formed under this Act shall issue common stock to a member until it has been fully paid for, but the promissory notes of a member may be accepted by the corporation as full or partial payment. The corporation shall hold the stock as security for the payment of the notes; but such retention as security shall not affect the member's right to vote.

The corporation may, at any time, as specified in the by-laws, except when the debts of the corporation exceed fifty per cent (50%) of the assets thereof, buy in or purchase its common stock at the book value thereof, as conclusively determined by the board of directors, and pay for it in cash within one (1) year thereafter.

Preferred stock may be owned by and transferred to any person. Such stock may be redeemable and retirable by the corporation on such terms and conditions as may be provided

for in the articles of incorporation and printed on the face of the certificates.

§ 8. The words "Rural Electric Cooperative" shall not be used in the corporate name of corporations other than those formed pursuant to the provisions of this Act.

§ 9. The articles of incorporation may be altered or amended at any regular meeting of the members of the corporation or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing the majority of all the members of the corporation present at such meeting. Amendments to the articles of incorporation when so adopted, shall be executed in quadruplicate by the president and attested by the secretary of the corporation and each copy shall be acknowledged by the president and the secretary before a notary public or any officer authorized by the laws of the Commonwealth of Kentucky to take acknowledgments of deeds. When so acknowledged, the four copies of the articles of incorporation, together with a certificate of acknowledgment, shall be filed in the office of the Secretary of State, who, if he shall find the same legal and valid, shall forthwith indorse his approval on each of the said four copies, retain, record and file one of the said copies in his office, delivering the other three copies thereof with his approval indorsed thereon, to the president of the corporation, who shall thereupon file one of the said approved copies of said amendment or amendments in the office of the county court clerk in the county wherein is located the principal office of the corporation, and who shall file one of the said approved copies of said amendment or amendments with the Dean of the College of Agriculture of the University of Kentucky. Any amendment to the articles of incorporation shall be and become effective upon the indorsement thereon by the Secretary of State of his approval thereof.

§ 10. The incorporating members of each corporation

organized under this act shall adopt for its government and management by-laws not inconsistent with the powers granted by this act. The written consent of a majority of the incorporators or incorporating members shall be necessary to the adoption of such by-laws, such consent to be evidenced by their affixing their respective signatures to the by-laws adopted. The by-laws may be amended by a majority vote of the board of directors. The by-laws may provide for any or all of the following matters:

(a) The time, place and manner of calling and conducting its meetings.

(b) The number of members constituting a quorum.

(c) The right of members to vote by proxy or by mail, or both; and the conditions, manner, form and effect of such votes.

(d) The number of directors constituting a quorum.

(e) The qualifications, compensations, authority, power, duties and term of office of directors and officers; the time of their election and the mode and manner of giving notice thereof.

(f) An executive committee and the allotment to such committee of any or all of the functions and powers of the board of directors, subject to the general direction and control of said board of directors.

(g) Penalties for violation of the by-laws.

(h) The amount of entrance, organization and membership fees, if any; the manner and method of collecting the same; and the purpose or purposes for which they may be used.

(i) The qualifications of members of the corporation and the conditions precedent to membership; the methods, time and manner of permitting members to withdraw; the manner of assignment or transfer of the interest of a member; the conditions upon which and the time when membership of any

member shall cease; the suspension of the rights of a member when he ceases to be eligible to membership in the corporation; the mode, manner and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the corporation upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his membership or, at the option of the corporation, the purchase at a price fixed by appraisal by the board of directors. The by-laws may provide that in case of the forced withdrawal or expulsion of a member, the board of directors shall equitably appraise his property interest in the corporation and shall at its option fix the amount thereof in money or other property, which shall be paid to him in such cash or other property within one year after such expulsion or withdrawal.

(j) Any other matter or thing relative to the control, regulation, operation, management or government of the corporation not inconsistent with law or with the articles of incorporation.

§ 11. (a) Each corporation formed hereunder shall have a board of directors of not less than five members which board shall constitute the governing body of the corporation. Unless otherwise provided in the articles of incorporation, or an amendment thereof, it shall not be necessary for directors to be members. Subject to the provisions of the articles of incorporation and the by-laws, the board of directors shall have power to manage and conduct the business and affairs of the corporation. The directors of the corporation, other than those named in its articles of incorporation, shall be elected annually or as provided for in the by-laws, provided, however, that no director shall be elected for a longer term than three years, by the members entitled to vote therefor. The directors shall be entitled to such compensation and reimbursement of expenses incurred by them as may be provided in the by-laws.

(b) When a vacancy on the board of directors occurs

other than by expiration of the term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the by-laws otherwise provide.

(c) The board of directors may adopt rules and regulations governing the procedure of the board and of the operations of the corporation formed hereunder which shall not be inconsistent with the articles of incorporation or the by-laws.

§ 12. The directors shall elect from their number a president and one or more vice presidents. The board of directors shall also elect a secretary and a treasurer, who need not be either directors or members. The powers and duties of the foregoing officers as well as their term of office, shall be as defined in the by-laws. The board of directors may combine the offices of secretary and treasurer and designate the combined office as secretary-treasurer. The board may elect such assistant secretaries and assistant treasurers, who need not be directors or members of the corporation, as in their judgment may be necessary.

§ 13. Every officer, employee and agent handling funds, cash, securities or negotiable instruments of or for any corporation created hereunder shall be required to execute and deliver such an adequate bond for the faithful performance of his duties as shall be approved by the board of directors.

§ 14. When a member of a corporation formed hereunder without capital stock has paid his membership fee in full he shall receive a certificate of membership which shall set forth the nature and extent of the member's interest in the corporation. Each member shall be entitled to one and only one vote at the meetings of the corporation.

§ 15. (a) The corporate purpose of each corporation formed hereunder shall be as provided in Section 3 hereof. Corporations formed hereunder shall furnish services and supply energy and shall sell personal property (except that transferred in part payment for other personal property) to their members only, except as otherwise in this act provided,

permitted or allowed. No person other than the original incorporators shall be, become or remain a member of any corporation formed under this act without capital stock, unless such person shall use energy supplied by such corporation or energy supplied by a corporation which is a member of the corporation in question or is a corporation formed under this act, or is a corporation furnishing energy or is a "cooperative association" as defined in Section 12 of that Act of Congress known and cited as the "Farm Credit Act of 1935", or any amendments thereto, and shall have complied with the terms and conditions in respect to membership contained in the articles of incorporation and in the by-laws of the corporation.

(b) It shall be lawful for any corporation formed under this act to provide in its articles of incorporation that in addition to the requirements for membership herein set forth that no person other than the original incorporators shall be, become or remain a member of any corporation formed under this act, unless such person is a farmer or a "cooperative association" within the meaning of Section 12 of the Farm Credit Act of 1935, and any amendments thereof, amending subsection (a) of Section 15 of the Agricultural Marketing Act, as amended.

(c) It shall be lawful for any corporation formed under this act to provide in its articles of incorporation that in addition to the requirements for membership herein set forth in subsection (a) of this section that a stated percentage of its members must be and remain farmers and/or "cooperative associations" within the meaning of Section 12 of the Farm Credit Act of 1935, and any amendment thereof, amending subsection (a) of Section 15 of the Agricultural Marketing Act, as amended.

(d) Subject to the provisions of this section, any corporation formed under and for the purposes provided in subsection (a) of Section 3 of this act may be, become and re-

main a member of any corporation formed under and for the purposes provided by subsection (b) of Section 3 of this act and may fully avail itself of the facilities and services of such corporation.

§ 16. A corporation formed hereunder shall have power and is hereby authorized, from time to time, to issue its obligations and may pledge its future revenues for the payment thereof. Such obligations may be in form of bonds, notes, debentures, interim certificates or other evidences of indebtedness. Said obligations shall be authorized by resolution or resolutions of the board of directors, and shall bear such date or dates, mature at such time or times, not exceeding twenty years from their respective dates, bear interest payable at such periods and at such rate or rates not exceeding six per centum (6%) per annum payable semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, not exceeding par and accrued interest, as such resolution or resolutions may provide. Such obligations may be issued for money or property, at public or private sale, for such price or prices as the board shall determine, provided that the interest cost to maturity of the property (at its value as determined by such board, the determination of which shall be conclusive), or money received for any issue of said obligation, shall not exceed six per centum (6%) per annum, payable semi-annually. Pending the preparation or execution of definite obligations, interim receipts or certificates or temporary obligations may be delivered to the purchaser of said obligations. Any provision of law to the contrary notwithstanding, any obligations and the interest coupons appertaining thereto, if any, issued pursuant to this act shall possess all of the qualities of negotiable instruments.

§ 17. In connection with the issuance of any obligation

or obligations, a corporation formed under this act may make such covenants or agreements and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its obligations, including the pledge or mortgage of all or any part of its assets, real or personal, tangible or intangible, or which, in the absolute discretion of the board of directors tend to make the obligations more marketable, notwithstanding that such covenants, agreements, acts and things may constitute a limitation on the exercise of the powers herein granted.

§ 18. Any corporation organized under this act shall have the power out of any funds available therefor to purchase and/or redeem any obligation issued by it at a price not exceeding the principal amount thereof and accrued interest thereon. All obligations so purchased shall be canceled and retired.

§ 19. (a) Each corporation formed hereunder shall have power to charge reasonable fees, rates, rents, tolls, prices, and other charges for any service rendered or to be rendered, either direct or in connection therewith, and for services or personal property or both, rendered or sold, including that rented or bailed, to its members, or others as in this act provided.

(b) Such fees, rents, tolls, prices and charges shall be such as will produce sufficient revenue.

(i) To pay all legal and other necessary expenses and charges incident to the operation of its system and business, including maintenance cost, operating charges, up-keep, repairs and taxes, if any.

(ii) To provide a sinking fund for the liquidation of obligations, principal and interest and to provide a reasonable surplus in the discretion of the board of directors.

(iii) To provide adequate funds to be used as working capital and to acquire property necessary or incidental to the proper conduct of the business of the corporation, as well

as funds for making improvements, extensions and replacements, including the replacement of merchandise and personal property sold in the usual course of business and to provide for depreciation and contingencies.

(iv) To provide such funds as may be needed for the proper conduct of the business.

It is the intent and purpose hereof that such charges shall produce an income sufficient to maintain such corporation property in a sound physical and financial condition to render adequate and sufficient service.

(c) Revenues and receipts not needed for the above and foregoing purposes shall be returned to the members as a patronage dividend or refund on a *pro rata* basis according to the amount of energy consumed or supplies, services or personal property received, rented and/or purchased, said patronage dividend or refund to be payable either in cash, common stock or certificates of indebtedness, other property or in abatement of current charges for energy, supplies, services or personal property, or both, as the board of directors of such corporation may determine or in the discretion of the board of directors by general rate reductions.

§ 20. Any two or more corporations created under the provisions of this act and operating in contiguous territory may enter into an agreement for the consolidation of such corporations. Such agreement shall set forth the terms and conditions, or the consolidation, the name of the proposed consolidated corporation, the number of its directors, not less than five, the time of the annual meeting of such consolidated corporation and the names of the persons, not less than five, to be directors until the first annual meeting. If such agreement is approved by a majority vote of the members of each corporation, present and voting at the meeting at which the proposed consolidation is voted upon, the directors named in the agreement shall subscribe and acknowledge articles in quadruplicate conforming substantially to the original

articles of incorporation except that it shall be entitled and endorsed "Articles of Consolidation of ....." (blank space being filled in with the names of the corporations being consolidated). The articles of consolidation shall state:

1. The names of the corporations being consolidated.
2. The name of the consolidated corporation.
3. Such other items as are required or permitted to be set forth in the original articles of incorporation.

Such articles of consolidation shall be filed and recorded substantially as provided in Section 5 of this Act.

Such articles of consolidation may be altered or amended at any regular meeting of the members of the corporation or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing the majority of all the members of the corporation present at such meeting. Amendments to the articles of consolidation when so adopted, shall be executed in quadruplicate by the president and attested by the secretary of the corporation and each copy shall be acknowledged by the president and the secretary before a notary public of any officer authorized by the laws of the Commonwealth of Kentucky to take acknowledgments of deeds. When so acknowledged, the four copies of the articles of consolidation, together with a certificate of acknowledgment, shall be filed in the office of the Secretary of State, who, if he shall find the same legal and valid, shall forthwith indorse his approval on each of the said four copies, retain, record and file one of the said copies in his office, delivering the other three copies thereof with his approval indorsed thereon, to the president of the corporation, who shall thereupon file one of the said approved copies of said amendment or amendments in the office of the county court clerk in the county wherein is located the principal office of the corporation, and who shall file one of the said approved copies of said amendment or amendments with the Dean of the College of Agriculture of

the University of Kentucky. Any amendment to the articles of consolidation shall be and become effective upon the indorsement thereon by the Secretary of State of his approval thereof. As soon as the Secretary of State shall have approved the articles of consolidation and indorsed his approval thereon, the proposed consolidated corporation shall thereupon constitute a body corporate with all of the powers of a corporation as originally formed hereunder.

§ 21. Any corporation created hereunder may be dissolved by filing, as hereinafter provided, articles which shall be entitled and indorsed "Articles of Dissolution of..... ....." (blank space being filled in with the name of the corporation) and shall state:

1. Name of the corporation and, if such corporation is a corporation resulting from a consolidation as herein provided, the name of the original corporations.

2. The date of filing of the articles of incorporation and, if such corporation resulting from a consolidation as herein provided, the dates on which the articles of incorporation of the original corporation were filed.

3. That the corporation elects to dissolve.

4. The name and post-office address of each of its directors, and the name, title and post-office address of each of its officers.

Such articles shall be subscribed and acknowledged in the same manner as an original articles of incorporation by the president or a vice president and the secretary or an assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a majority vote, in person or by proxy, of the members of the corporation entitled to vote, present and voting at the meeting at which the proposed dissolution is voted upon.

Articles of dissolution shall be filed and recorded substantially as provided in Section 5 of this act. As soon as the

Secretary of State shall have approved the articles of dissolution and indorsed his approval thereon, the corporation shall be deemed to be dissolved.

Such corporation shall continue for the purpose of paying, satisfying and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued, contract and be contracted within its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall be ratably distributed to the members thereof.

§ 22. Except as provided in Sections 15, 16 and 17 of this act, no corporation may sell, mortgage, lease or otherwise dispose of any of its property other than:

(a) Property which, in the judgment of the board of directors is neither necessary nor useful in operating and maintaining the corporation's system, provided, however, that sales of such property shall not in any one year exceed ten per centum (10%) in value of the value of all of the property of the corporation other than personal property acquired for resale and merchandise,

(b) Services of all kinds, electricity and energy,

(c) Personal property acquired for resale, and

(d) Merchandise,

unless the board of directors is authorized so to do by a majority vote of the members of the corporation entitled to vote, present and voting at the meeting at which the proposed sale, mortgage, lease or other disposal is voted upon.

§ 23. It shall be unlawful for any person, firm or corporation engaged in the business of producing, including generating, manufacturing, selling or distributing electric energy, or any thereof, for public use, in the Commonwealth of Kentucky to refuse to furnish electric energy to any corporation

organized under the provisions of this Act, provided that such corporation is able and willing to pay the same rates for such energy as are paid by other consumers in the same territory using a comparable amount of energy. This shall not, however, prevent a discrimination being made which is based upon the lead factor or diversity factor. Whoever being such person, firm or corporation referred to in this section or whoever being an officer, agent or employee in an official capacity, of a public utility corporation, knowingly violates the provisions of this section or willfully fails, omits, or neglects to observe or comply with the provisions hereof shall be fined not less than $100 nor more than $1,000, or imprisoned not more than two years, or both, and each day's continuance of such failure, omission, or neglect shall constitute a separate offense.

§ 24. The provisions of the General Corporation laws of this state and all powers and rights thereunder, shall apply to corporations organized hereunder, except where such provisions are in conflict with or inconsistent with the express provisions of this Act.

§ 25. This Act is to be liberally construed and the enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

§ 26. (a) Any corporation created hereunder shall be held to be a "corporation not organized or doing business for profit" and shall not be held to be a public utility or "utility" within the meaning of Section 1 of Chapter 145 of the Kentucky Acts of 1934.

(b) Corporations formed hereunder shall be subject to the general supervision of the Public Service Commission of Kentucky.

§ 27. Corporations formed hereunder shall be exempt from all franchise taxes, profit taxes, gross and net taxes, sales taxes, occupation taxes, privilege taxes, income taxes,

any and all taxes on electric current consumed and from all excise taxes whatsoever, any statute or statutes now existing or hereafter passed to the contrary notlwithstanding. In lieu of any and all other taxes, state, county, municipal and/or local corporations formed under this Act being non-profit cooperative organizations shall pay annually to the treasurer of the Commonwealth of Kentucky an annual tax of ten dollars.

§ 28. Corporations formed hereunder, and securities and obligations issued hereunder, shall be exempt from all of the provisions of that Act known and referred to as the Kentucky "Blue Sky Law" of March, 1926, together with all amendments now in force or subsequently enacted.

§ 29. For acting upon, filing and recording articles of incorporation, amendments to articles of incorporation, articles of consolidation, amendments to articles of consolidation and articles of dissolution regarding any corporation formed hereunder, the corporation shall pay and the Secretary of State shall be entitled to receive and receipt therefor, a sum not to exceed $2.00. (No fee shall be paid or received for the affixing of the great seal of the Commonwealth of Kentucky to any of the aforesaid documents or any copy thereof.)

For filing and recording articles of incorporation, amendments to articles of incorporation, articles of consolidation, amendments to articles of consolidation and articles of dissolution, regarding any corporation formed hereunder, the corporation shall pay and the county court clerk shall be entitled to receive and receipt therefor, a sum not to exceed $3.00. The recordation of the above mentioned instruments shall be exempt from all recording taxes.

§ 30. If any provision of this Act, or the application of such provision to any person, body, or circumstance, shall be held invalid, the remainder of this Act, or the application of such provisions to persons, bodies or circumstances, other

than those as to which it is held invalid, shall not be affected thereby.

§ 31. All Acts and parts of Acts and all statutory provisions and all laws and parts of laws in conflict with the provisions of this Act or any part of this Act are hereby expressly repealed.

By Mr. Matherly:

H. B. 4. An Act repealing Chapter Three of the Acts of the Third Special Session (Revenue Session) of the General Assembly of One Thousand Nine Hundred and Thirty-Six, known as the Luxury Tax and being An Act relating to Revenue and Taxation, said Act now being Section 4281d-1 to Section 4281d-25 inclusive, Carroll's Kentucky Statutes, 1936 Edition, now codified as all of said sections of Carroll's Kentucky Statutes, 1936 Edition, from Section 4281d-1 to Section 4281d-25 inclusive.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 3 of the Acts of the third extraordinary session (Revenue Session) of the General Assembly of one thousand nine hundred and thirty-six, known as the luxury tax and omnibus bill, now codified as Sections 4281d-1 to Section 4281d-25, Carroll's Kentucky Statutes, 1936 Edition, be and the same is hereby repealed. Provided, however, that the enforcement provisions of said law shall remain in full force and effect as to all taxes on account of sales made (and, in the case of cosmetics, merchandise received) prior to the effective date of this Act and which have not been collected and paid into the State Treasury at the time of the said effective date of this Act.

By Mr. McCarthy:

H. B. 5. An Act appropriating money for the 1936-37 Special Session of the General Assembly of the Commonwealth of Kentucky and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section One (1). There is hereby appropriated out of the General Expenditure Fund for the payment of salaries and other necessary expenses of the 1936-37 Special Session of the General Assembly the sum of Seventy-Five Thousand Dollars ($75,000.00).

Section Two (2). Whereas, the funds heretofore appropriated for the General Assembly of the Commonwealth of Kentucky for 1936 are practically exhausted and whereas insufficient funds are available for the 1936-37 Special Session of the General Assembly, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Ordered that H. B. 1 and H. B. 5 be referred to the Committee on Kentucky Statutes No. 1.

The Speaker announced the personnel of the Committee on Kentucky Statutes No. 1 to be the same as during the Regular Session, 1936, viz.:

KENTUCKY STATUTES No. 1.

G. W. Dunlap, *Chairman.*

Stanley Dickson.
Wallace Brown.
Dr. B. F. Shields.
T. P. Fitzpatrick.
J. A. Coleman.
Joe E. Robinson.
Rodes K. Myers.

Dr. Shields moved that the House do now recess for ten minutes.

Said motion was agreed to.

And then the House recessed.

After a time the Speaker resumed the Chair and called the House to order.

Mr. Myers moved that the Rules of this House be suspended for the purpose of permitting the Committee on Kentucky Statutes No. 1, to make a report.

Said motion was agreed to.

Thereupon Mr. Myers of the Committee aforesaid, reported bills of the following titles, viz.:

H. B. 1. An Act to provide for the payment of unemployment compensation to designated classes, or persons and for the administration thereof; the declaration of a State public policy; etc.

H. B. 5. An Act appropriating money for the 1936-1937 Special Session of the General Assembly of the Commonwealth of Kentucky and declaring an emergency to exist.

With the expression of opinion that said bills ought to pass.

Said bills were read at length the first time and ordered to be placed on the Calendar.

Dr. Shields moved that Chester D. Silvers, Jr., be appointed an Honorary Page of this House for this session.

Said motion was agreed to.

Mr. Davis moved that the Clerk of this House be directed to have printed and placed on the desks of the members, copies of the Governor's proclamation.

Said motion was agreed to.

Mr. Silvers moved that when the House adjourns today it adjourn to meet again on tomorrow at nine o'clock A. M.

Mr. Myers moved that when this House adjourns today it adjourn to meet again on tomorrow at 12:59 A. M.

Mr. Munford moved that when this House adjourn today, it adjourn to meet again on tomorrow at 9:05 A. M.

Said last named motion was agreed to.

Mr. Davis moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, DECEMBER 24, 1936.

The House was opened with prayer by the Reverend Albert G. Stone of the Methodist Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

H. T. Baker	B. F. Bedford	Douglas Bolling
W. T. Baker	Reuben J. Boling	Ollie J. Bowen

Wallace Brown	J. H. Jones	L. K. Rice
Dr. R. A. Byers	O. C. Jones	Wade H. Riley
Jas. C. Carter	R. T. Kirkman	Joe E. Robinson
V. O. Chandler	J. F. Ladd	John C. Robinson
Roscoe Claxon	Leslie Larrimore	W. T. Rollo
George S. Clay	Robert E. Lee	A. W. Ross
Roy Conway	T. B. McConnell	Carl Scheben
Herbert Cook	J. L. McDermott	Carl Schneider
Harry Davis	Lloyd MacDonald	Ray O. Shehan
Sam Dever	Elmer McGlothen	Dr. B. F. Shields
Howard G. Early	John Marshall	P. L. Sidebottom
Garland Embry	D. T. Matlack	Chester D. Silvers
Walter R. Fannin	Duke Mayfield	Bruce Sloan
T. P. Fitzpatrick	W. E. Mull	Henry Stewart
H. Myer Garner	Tyler Munford	Dr. H. S. Swope
G. W. Garrett	Rodes K. Myers	J. J. Thomas
Ferd A. Gnau	J. C. Nickell	R. Van Bever, Jr.
Jas. T. Hamilton	Russell O'Neill	Henry Ward
W. L. Hampton, Jr.	Mel Petry	L. R. Wells
Price Holbrook	A. W. Pfeiffer	W. G. Williams
Clyde S. Howard	J. C. Ramey	Charles Wylie
Ira W. Hulette	Hobart Rayburn	

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Gnau moved that an indefinite leave of absence be granted to Mr. J. A. Coleman of the county of Pulaski.

Said motion was agreed to.

Mr. Gnau offered the following resolution, viz.:

WHEREAS, The Honorable J. A. Coleman, member of the House of Representatives, from Pulaski County, is at this time seriously ill and confined to his room at Somerset; and

WHEREAS, The House of Representatives has taken notice of these facts, through granting a leave of absence to The Honorable J. A. Coleman until such a time as he is physically able to attend the daily sessions: Now, Therefore,

Be it Resolved by the House of Representatives, That the Auditor of Public Accounts is hereby instructed to issue at this time warrants on the State Treasury to cover the mileage and stationery expenses allowed Mr. Coleman under the law.

Said resolution was adopted.

Mr. Claxon offered the following resolution, viz.:

H. Res. 2. Whereas, The Federal Government, during the depression period, found it necessary to effect certain economies in the management of the postal service in keeping with governmental policies, whereby many rural free delivery routes were abolished, discontinued, or consolidated, the result being that said rural free delivery was of necessity made less efficient and less able to meet the public requirements for prompt postal service; and

WHEREAS, Under these various consolidations, discontinuances, and abolishments many of the rural routes are now unable to properly deliver the mail, on many occasions it being after dark before the route is completed, and in numbers of cases;

WHEREAS, It is necessary and important that the personnel of the postal service be increased, particularly on rural free delivery routes in order to render the proper and efficient service desired by the postal department; and

WHEREAS, It is the policy and desire of the Federal Government to increase employment and afford greater opportunities for every American citizen, where such employment can properly and profitably be done: Now,

Be it Resolved by the House of Representatives of the General Assembly of Kentucky:

That we hereby respectfully request the Congress of the United States that legislation be presented looking toward the increase in the personnel of the postal service in order that the abuses herein referred to may be corrected and the intent of the postal service to render more efficient service be realized.

Be it Resolved further, That the Chief Clerk of the House of Representatives of the General Assembly of Kentucky be directed to forward this petition to the Clerk of the House of Representatives, to Hon. Alben W. Barkley, and Hon. M. M. Logan, representing the State of Kentucky in the Senate of the United States, and to each of the nine (9) Congressmen representing Kentucky in the House of Representatives of the United States.

Said resolution was adopted.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, viz.:

By Mr. Carter:

H. B. 6. An Act repealing Chapter 24 of the Acts of the 1934 Special Session of the General Assembly, being Section 2237-1, Kentucky Statutes, Baldwin's 1934 Kentucky Statute Service, consolidating the office of Jailer with that of Sheriff in each county of the State, and restoring to said Jailer and Sheriff, respectively, the duties now vested in them.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 24 of the Acts of the 1934 Special Session of the General Assembly of Kentucky, providing for the con-

solidation of the office of jailer with that of sheriff in each county of the State, being Section 2237-1, Kentucky Statutes, Baldwin's 1934 Kentucky Statute Service, be and the same hereby is repealed and the jailer and sheriff in each of the counties of this Commonwealth are hereby restored to duties now by law vested in them, respectively Chapter 24 of the Acts of the 1934 Special Session of the General Assembly of Kentucky, being Section 2237-1, Kentucky Statutes, Baldwin's 1934 Kentucky Statute Service, hereby is expressly repealed.

By Mr. Bowen:

H. B. 7. An Act relating to the sale and purchase of real estate for and on behalf of the Commonwealth of Kentucky; providing for the manner, terms and conditions under which property belonging to the State may be sold and/or purchased for and on behalf of the Commonwealth of Kentucky; providing for the manner in which the sale of said property shall be made and providing how title to said real estate may be conveyed; providing for the collection of the purchase money and the reinvestment of same; providing for the appropriation and expenditure of the purchase money, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Director of the Division of Purchases and Public Property under the direction of the Commissioner of Finance and upon the approval of the Governor of the Commonwealth of Kentucky shall sell for and upon behalf of the Commonwealth of Kentucky all real estate belonging to the State determined not to be needed for public use or to have become unsuited for public use and the Director of the Division of Purchases and Public Property, and the Commissioner

of Finance and the Governor of the Commonwealth of Kentucky after having determined that said real estate should be sold as herein set out are hereby authorized and empowered to convey said real estate by deed of General Warranty, signed by the Director of Purchases and Public Property, the Commissioner of Finance and the Governor of the Commonwealth of Kentucky.

§ 2. No real estate belonging to the Commonwealth of Kentucky shall be sold as set out in Section 1 until same has been advertised not less than once a week for at least three weeks just prior to the date of sale in a newspaper published in the county where the real estate is located, and also in the newspaper having the largest circulation in Kentucky, and by printed handbills posted for at least ten days before the date of the sale, one of said handbills to be placed at the Courthouse door in the county where said property is located, one or more at or near the property to be sold and one or more in three other public places located in said county. Said advertisement shall contain a brief description of the property to be sold, the terms and conditions of the sale together with the time and place of said sale, and said property shall be sold at public outcry to the highest and best bidder.

The Director of the Division of Purchases and Public Property, however, may receive sealed bids for said property to be opened on the day of sale and considered as bids in the bidding for said property.

The Director of the Division of Purchases and Public Property, with the approval of the Commissioner of Finance and the Governor of the Commonwealth of Kentucky, may reject any and all bids if in their judgment it is to the best interest of the Commonwealth to do so.

If all of said bids are rejected, the Director of the Division of Purchases and Public Property, with the approval of the Commissioner of Finance and the Governor of the Com-

monwealth of Kentucky, may readvertise said property as herein set out and conduct a sale as herein provided for the purpose of selling said property.

§ 3. When any real estate is sold as provided for herein, the terms of said sale shall be as follows: One-fourth or 25% of the purchase price shall be paid on the day of the sale of the real estate and the remainder of the purchase money shall be paid within thirty days from said date, at which time the Director of the Division of Purchases and Public Property, the Commissioner of Finance and the Governor of the Commonwealth of Kentucky shall sign and deliver to the purchaser a deed of General Warranty conveying the title of said property to the purchaser thereof.

In the event the purchaser defaults or fails for any reason to pay the remainder of the purchase money, said portion which was paid shall be deemed liquidated damages and forfeited to the Commonwealth for the breach of said contract.

§ 4. When any real estate has been sold as set out in this Act, the Director of the Division of Purchases and Public Property, together with the Commissioner of Finance and the Governor of the Commonwealth of Kentucky, shall collect the purchase money and said fund shall be covered through the Department of Finance into the Department of the Treasury, and same shall be certified prior to the first Monday of August, 1940, to the Auditor of Public Accounts so that his records of receipts will be complete.

Said monies so collected from the sale of said real estate as herein provided shall be appropriated and placed to the credit of a special fund to be set up and known as the Public Property Fund.

§ 5. The Director of Purchases and Public Property, with the approval of the Commissioner of Finance and the Governor of the Commonwealth of Kentucky, is hereby empowered to purchase any real estate that they may deem necessary to carry on the proper functions of government for any

department of the government, and are further empowered to erect any improvements or repair any buildings located on any property so purchased or to be purchased or that may be now owned by the Commonwealth of Kentucky and are hereby empowered to expend any of the monies collected from the sale of real estate as set out in this Act for the said purposes of purchasing real estate for and upon behalf of the Commonwealth of Kentucky or to erect any improvements on any real estate that is owned or which may be purchased hereafter or to repair any buildings on any real estate purchased or which may be purchased hereafter or is now owned by the Commonwealth of Kentucky, and every requisition for disbursement for any of the monies set up in the fund as herein set out must be approved by the Commissioner of Finance and the Governor of the Commonwealth of Kentucky, together with the Director of the Division of Purchases and Public Property prior to the issuance of any warrant on the State Treasurer by the Auditor of Public Accounts.

§ 6. The Commonwealth of Kentucky is now contemplating the change in location of its penitentiaries, reformatories, and other charitable and eleemosynary institutions and, whereas the Federal Government has made a grant to the Commonwealth of Kentucky of a sum of money to assist in building new and modern institutions, and whereas the institutions now owned by the Commonwealth of Kentucky will be unfit and are not properly located to carry out the program of the Commonwealth of Kentucky and the Federal Government in this change as is contemplated, to better the conditions in said institutions, and whereas the new property upon which said buildings are to be located must be purchased at once in order to take advantage of the Federal grant, and whereas it will be necessary to immediately sell the old property and apply the proceeds of the sale upon the purchase and construction of new property for this purpose, there is hereby declared an emergency to exist and this Act shall

become effective immediately after it is passed and approved by the Governor.

All laws or parts of laws in conflict herewith are hereby repealed insofar as same conflict herewith.

By Mr. Schneider:

H. B. 8. An Act to repeal, amend and reenact Section Ten (10) and Section Twelve (12), Chapter Four (4), of the Acts of the Third Extraordinary Session of the 1936 General Assembly, being entitled "An Act concerning revenue and taxation, and declaring an emergency", said sections now being codified as Sections 4281e-10 and 4281e-12 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section Ten (10) of Chapter Four (4) of the Acts of the Third Extraordinary Session of the 1936 General Assembly, being entitled "An Act concerning revenue and taxation and declaring an emergency", said section now being codified as Section 4281e-10 of Carroll's Kentucky Statutes, Baldwin's Edition of 1936, reading as follows:

"The Department is hereby authorized and directed to prescribe the forms of the stamps herein provided for. It shall have such stamps prepared for sale in such manner as it may deem proper. Such stamps shall be sold at their face value. The methods of breaking packages and containers and the methods of affixing the stamps shall be prescribed by the Department in such a way as to enforce the provisions of this measure."

Be and the same is hereby repealed, amended and reenacted so that as amended and reenacted it shall read as follows:

"The Department is hereby authorized and directed to prescribe the forms of the stamps herein provided for. It shall have such stamps prepared for sale in such manner as it may deem proper. Such stamps shall be sold at their face value. But the Department shall allow to each licensed wholesaler, holding a valid permit from the Department of Revenue and required by this Act and the regulations issued pursuant thereto to purchase and affix cigarette tax stamps, for each one dollar's worth of stamps purchased at their face value from the Department and actually affixed by said person, an amount of stamps equal to ten cents at their face value as compensation for the affixing of said stamps and making such reports as the Department may require. Said allowance shall be made by the Department only when purchase of stamps shall have been made in amounts equal to ten dollars ($10.00) or multiples thereof, at their face value, and when the Department shall be satisfied that the stamps so purchased were actually used as provided by the Department and the required reports made.

"Be it provided, however, that the said allowance shall be increased by fifty per cent (50%) thereof for the period of the first sixteen months following the effective date of this act; provided that the additional fifty per cent (50%) shall in no event in the aggregate paid to any given wholesale permittee exceed ten per cent (10%) of the face value of stamps purchased by said permittee prior to the effective date of this amendment.

"The method of breaking packages and containers and the methods of affixing stamps shall be prescribed by the Department in such a way as to enforce the provisions of this Act."

§ 2. That Section Twelve (12) of Chapter Four (4) of the Acts of the Third Extraordinary Session of the 1936 General Assembly, being entitled "An Act concerning revenue and taxation and declaring an emergency", said section now

being codified as Section 4281e-12 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, reading as follows:

"Every manufacturer, wholesaler, and retailer is hereby required to preserve written records of sales made taxable by this Act, to keep invoices of commodities received by him, and to maintain other records and submit such additional reports as the Department may require for the enforcement of this Act."

Be and the same is hereby repealed, amended and re-enacted so that as amended and re-enacted it shall read as follows:

"Every manufacturer located in or doing business in this State is hereby required to keep written records of all shipments of cigarettes, whether or not said shipments are made from the Kentucky plants of said manufacturers, to consignees located in or doing business in Kentucky, regardless of the fact that said cigarettes may have been sold by the shipper to a party other than the consignee or may have been shipped for the account of some other vendor, and every manufacturer shall keep such other records and submit such reports as the Department may require for the enforcement of this Act."

Whereas, a great hardship has been placed upon those persons required by the Cigarette Tax Act to affix the stamps and report the tax, and,

Whereas, the business of selling and distributing cigarettes is being driven from the State of Kentucky, and the revenue of the Commonwealth is thereby being endangered, an emergency is hereby declared to exist, and this Act shall become a law and be effective upon the fifth calendar day from the date of its passage and approval by the Governor.

By Mr. Hulette:

H. B. 9. An Act to repeal and re-enact Sections one,

two and ten of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741X-1, 2741X-2 and 2714X-10, Kentucky Statutes, Carroll's Edition, 1936, pertaining to municipal housing and extending the privileges of said statutes to include cities of the third class as well as cities of the first and second classes, and declaring the existence of an emergency and providing for the repeal of all acts and parts of acts which may be inconsistent therewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741X-1, 2741X-2 and 2741X-10, Kentucky Statutes, Carroll's Edition, 1936, be and the same are hereby repealed and re-enacted so that as and when re-enacted said sections shall read as follows:

Section 2741X-1. CITIES AUTHORIZED TO MAINTAIN HOUSING PROJECTS.—Cities of the first class, second class and third class are hereby authorized and empowered to acquire, establish, erect, maintain and operate low cost housing projects within the corporate limits of such municipality and under the provisions of this act, for the purpose of providing adequate and sanitary living quarters for individuals or families. It is hereby declared as a matter of legislative determination that in order that they may engage in low cost housing and welfare of the public it is necessary in the public interest to confer these powers upon cities; and to provide for the creation of municipal housing commissions as hereinafter provided, and to vest in them all powers necessary or appropriate in order that they may engage in low cost housing and slum clearance projects; and that the powers herein conferred upon the cities and the municipal housing commissions including the power to acquire property, to remove unsanitary

or substandard conditions, to construct and operate housing accommodations and to borrow, expend and repay moneys for the purposes herein set forth, are public objects essential to the public interest.

Section 2741X-2. MUNICIPAL HOUSING COMMISSION.—The mayor of any city of the first class, second class or third class, with the approval of the legislative body of the city, may appoint four persons, who, with the mayor, *ex officio,* shall constitute the Municipal Housing Commission. Each person so appointed to the said Municipal Housing Commission shall be at least twenty-five years of age and a *bona fide* resident of such municipality for not less than one year preceding such appointment. No officer or employee of said city, whether holding a paid or unpaid office, shall be eligible to hold an pointment on such commission. Such appointees shall be originally appointed for terms of four years. Upon the expiration of such term, appointment shall be made in like manner except that the terms of the four appointees shall be for one year, two years, three years and four years, respectively, and the successors of such appointees shall be appointed in like manner, each for a period of four years. Not more than two of such appointees on any Commission shall be affiliated with the same political party. Vacancies shall be filled for any unexpired term in the same manner as the original appointment. The persons appointed as provided herein shall constitute a body corporate under the name of (Insert name of city) Municipal Housing Commission, and shall have power to contract and be contracted with, to sue or be sued in such name and to adopt a seal and alter same at pleasure. Such Commission shall elect a chairman and a vice chairman from its members, and a secretary and treasurer who need not be a member of such commission. The duties of the offices of secretary and treasurer may be performed by the same person. The members of such commission, except the mayor, shall receive such compensation as may be fixed by the legis-

lative body of the city either as a salary or as payment for meetings attended, but the maximum compensation of the chairman in any year shall not exceed two thousand dollars ($2,000.00) and of each other member shall not exceed four hundred dollars ($400.00) per year. Such Commission shall fix the compensation of the secretary and treasurer or secretary-treasurer in its discretion except as hereinafter provided or as may be provided by the legislative body of the said city of the first class, second class or third class. Such Commission shall have power to establish by-laws, rules and regulations for its own government and to make and enter into all contracts or agreements necessary or incidental to the performance of the duties and the execution of its powers under this act. Such Commission may employ engineering architectural and constructural experts and inspectors and attorneys, and such employees as may be necessary in its opinion, and fix their compensation subject to the limitations hereinafter provided and/or as may be hereinafter provided by the legislative body of said city of the first class, second class or third class, all of whom shall do such work as said Commission shall direct; provided, however, that the legislative body of said city or cities of the first class, second class or third class may provide or prescribe whether or not said employees or any of them shall be required to devote their entire time to the duties as such employees of said Commission.

Section 2741X-10. Funds for Carrying Out Purposes of this Act; Bonds; Insurance; Payments.—Cities of the first, second and third classes are hereby authorized to provide funds for carrying out the purposes of the Act by the issuance of revenue bonds of such cities pursuant to a resolution of the Housing Commission. Such bonds or other obligations of a Housing Commission shall not constitute an obligation of the State, city or any other governmental subdivision, agency or instrumentality thereof; but shall be payable only out of the

properties, revenues and assets of the Housing Commission. Nothing contained in this Act should be construed to authorize or permit any city of the first class, second class or the third class to incur any indebtedness of any kind or nature as contemplated by the provisions of the Constitution of the Commonwealth in relation to the indebtedness of cities. Subject to the restrictions set forth in this Act, a Housing Commission may incur any indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with any project undertaken by it hereunder. A Housing Commission may issue its bonds to provide for the payment of its indebtedness from time to time in such amounts, with such maturities, upon such terms and conditions and upon such security as the Commission may deem necessary or advisable in connection with any project or projects undertaken or to be undertaken by it hereunder. Authorization for the issuance of bonds shall be made by resolution of the Housing Commission and the bonds shall be signed by the Chairman of the Commission or other agent designated by the Commission and by the mayor or presiding officer of the legislative body of the city under the city's seal attested by a finance officer of the city. A Housing Commission may issue bonds which shall be payable out of its properties and revenues generally with or without the pledge or mortgage of specific property or revenues. It may also issue bonds in such form that they shall be payable only out of the properties and revenues specifically pledged or mortgaged for their payment. A Housing Commission may in connection with the borrowing of funds or otherwise enter into any agreements with the Federal Government, or any agency or instrumentality thereof, including specifically the Federal Emergency Administration of Public Works and the Public Works Emergency Housing Corporation, providing for supervision and control of the Housing Commission or any project and containing such other covenants terms and conditions as the

Housing Commission may deem advisable. In connection with any loan by a government, a Housing Commission is authorized to agree to limitations upon the exercise of any powers conferred upon it by this Act. Bonds issued pursuant to this Act shall have and are hereby declared to have, in the hands of *bona fide* holders, all of the qualities of negotiable instruments under the law of merchant or the negotiable instruments Act of the Commonwealth of Kentucky.

They shall be exempt from taxation by the Commonwealth of Kentucky and by the municipalities and political subdivisions thereof. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act and that it does not constitute an indebtedness of the city within the meaning of any constitutional provisions of limitations. In case any provisions shall be made for the redemption or prepayment of any such bonds or evidences of indebtedness before maturity, such provisions shall require that the bonds or evidences of indebtedness so to be redeemed or prepaid shall be selected by lot from the whole number of such issue then outstanding. The said bonds may be issued without a vote of the voters and without any other proceedings or happenings of any other conditions or things than those proceedings, conditions and things which are specified and required by this act or by the constitution of the Commonwealth.

On account of the immediate necessity of inaugurating slum clearance programs in certain municipalities of the third class in order to provide more healthful and sanitary conditions and to permit third class cities to avail themselves of present available Federal aid an emergency is declared to exist and this act shall become effective immediately upon its passage by the General Assembly and its approval by the Governor.

All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Dr. Shields.

H. B. 10. An Act relating to revenue and taxation and repealing Sections 4064, 4241, 4257a, 4260-2, 4260-3, 4260-4, 4260a, 4260d-3, and 4265, Kentucky Statutes, Carroll's 1930 and 1936 Editions, and repealing, amending and re-enacting Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260d-1, 4261, 4262, 4263, 4019a-13 and 4267 of said Statutes; and repealing all laws in conflict with this Act to the extent of such conflict, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Commissioner of Revenue hereby is empowered and authorized to act in the name of and in behalf of the Commonwealth of Kentucky and in the name of and in behalf of any and all counties and school districts and other taxing districts in the Commonwealth of Kentucky, excepting and excluding municipalities of the First to Sixth Classes inclusive, to institute any suit, action or proceeding for the collection of delinquent taxes and the assessment of omitted property, and to act as relator in any and all actions brought for the collection of delinquent taxes or the assessment of omitted property for the Commonwealth of Kentucky and any and all counties, school districts and other taxing districts in the Commonwealth of Kentucky, excepting and excluding cities of the First to Sixth Classes, inclusive, and to employ field agents, accountants and attorneys to bring and prosecute all such actions and proceedings, and to fix the salaries or compensation of such agents, accountants and attorneys, including the payment of their necessary expenses. The employment and compensation of such agents, accountants and attorneys shall be approved by the Governor of the Commonwealth of Kentucky in writing.

§ 2. All power and authority heretofore or now vested in revenue agents and auditor's agents and sheriffs and other State, county or district agents or officers relating to the bringing or prosecution of actions or proceedings for the assessment of omitted property or the collection of delinquent taxes, for or on behalf of the Commonwealth of Kentucky, for or on behalf of any county, school district or other taxing district in the Commonwealth of Kentucky, excepting and excluding municipalities of the First to Sixth Classes, inclusive, hereby are transferred to and vested in the Commissioner of Revenue. All penalties heretofore or now imposed or provided to be imposed by law, either in whole or in part, in favor of or for the benefit of revenue agents, auditor's agents, sheriffs and other State, county or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property, shall as and when collected be covered into the State Treasury and credited as hereinafter provided.

§ 3. Sections 4064, 4241, 4257a, 4260-2, 4260-3, 4260-4, 4260a, 4260d-3 and 4265, Kentucky Statutes, and each of said sections, be and the same hereby are repealed.

§ 4. Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260d-1, 4261, 4262, 4263, 4019a-13 and 4267, Kentucky Statutes, and each of said sections, be and the same hereby are repealed, amended and re-enacted to read as follows:

4258. It shall be the duty of each field agent, accountant and attorney appointed by the Commissioner of Revenue before instituting or causing to be instituted any suit, action or proceeding which he is or may be authorized by law to institute, to file a copy of same with the Commissioner of Revenue and accompany same with a verified statement of the facts upon which it is based; and no action, suit or proceeding shall be instituted or caused to be instituted by any field agent, accountant or attorney under the provisions of this Act until same is approved and authorized by the Commissioner of Revenue. No action or proceeding shall be

settled by any field agent, accountant or attorney except by judgment in open court, and no compromise or agreed judgment shall be entered in any such action or proceeding until there is filed with the Commissioner of Revenue a statement verified by said field agent, accountant or attorney stating the facts and showing the reasons why a compromise or agreed judgment should be entered, and shall further state that no agreement or settlement other than the one stated in the proposed judgment has been directly or indirectly entered into by him or anyone for him, and that said proposed settlement is for the best interest of the Commonwealth; and any false statement in said verified report knowingly made by said field agent, accountant or attorney shall constitute false swearing and punishment as such, upon indictment by the grand jury of the county in which said affidavit is made, shall be as provided in Section 1174, Carroll's Kentucky Statutes. Upon receiving said report it shall be the duty of the Department of Revenue to investigate the action or proceedings in which it is proposed to enter a compromise or agreed judgment, and if satisfied it is for the best interest of the Commonwealth to agree to same, the Commissioner of Revenue shall approve same and send it to the field agent, accountant or attorney, who shall file the same in court in which said action or proceeding is pending and same shall authorize the court as far as the Commonwealth, county, school district and other taxing district for which the Commissioner of Revenue is acting as relator, is concerned to enter said compromise or agreed judgment. Each field agent, accountant and attorney shall keep a set of books in which shall be kept a list of all actions and proceedings instituted or caused to be instituted by him together with the final disposition of same; and each field agent, accountant and attorney is directed to report immediately to said Commissioner of Revenue all important steps taken in any action or proceeding on behalf of the Commonwealth, or any county, school district or other taxing district

for which and in the name of which the Commissioner of Revenue is authorized to act as relator. It shall be the duty of said Department of Revenue to examine the books and accounts of said agents, accountants and attorneys at any time it deems proper, and said books and accounts shall at all times be open to its inspection.

4259. Before entering upon the discharge of the duties of his employment, each field agent and accountant of the Department of Revenue shall be required to execute a bond to the Commonwealth of Kentucky deemed good and sufficient by the Commissioner of Revenue with a corporate surety authorized to do business in Kentucky, conditioned upon the faithful performance of all duties imposed upon said field agent or accountant by the Commissioner of Revenue. The premiums on said bonds shall be paid by the said Department. The Commissioner of Revenue shall have the authority to require the aforesaid bond to be renewed when he deems the interest of the Commonwealth of Kentucky to require it.

4260-1. It shall be the duty of the field agents, accountants and attorneys of the Department of Revenue to cause to be listed for taxation all property omitted by the County Tax Commissioners, board of supervisors, Kentucky Tax Commission, acting as a board of valuation and assessment, or any other assessing authority, for any year or years so omitted. The field agent, accountant or attorney proposing to have the property assessed shall file in the clerk's office of the county in which the property may be liable to assessment a statement containing a description and value of the property proposed to be assessed, and the value of the corporate franchise, if any, and if known, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, and the year or years said property was unassessed and for which the property is poposed to be assessed. The clerk of the court shall thereupon issue a summons against the owner, or person in possession of said property, if the

owner is unknown, to show cause before the next regular term of the county court, which does not commence within five days after the service of such summons, why such property or corporate franchise, if any, shall not be assessed at the value named in the statement filed; but no judgment by default or otherwise shall be rendered against such alleged owner unless the statement filed shall contain such description of the property sought to be assessed as will enable the court to identify it. The summons shall be executed by the sheriff of the county by delivering a copy thereof to the owner, if in the county, if not, then to his agent, attorney or person in possession of the property. And in the event that the owner of said property is known but is absent from the state, and he has no attorney or agent in this state, and no one is in possession of said property, if said property consists of real estate, the summons shall be served by posting same in a conspicuous place upon said property; if the property consists of tangible personal property said summons shall be placed in a conspicuous place where said property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown, and no one has possession or custody thereof, an action for the assessment of said property shall be instituted by filing the petition above mentioned and by procuring constructive service against the owner of the property described in said petition, as is required and provided under the provisions of Sections 57, 58, 59, and 60, of the Civil Code of Practice of Kentucky against persons whose names and places of residence are unknown. In all of the above cases an attachment of the property omitted from assessment may be procured against the owner thereof without the execution of a bond by the Commonwealth or its relator at the time of the institution of the action or thereafter by the representative or attorney of the Commissioner of Revenue making an affidavit that the said property described in the petition is subject to state, county, school district or

other taxing district tax, and is unassessed for any taxable year. At the next regular term of the county court after the summons has been served for five days or the warning order against the defendant, whose name and place of residence are unknown, has been made for thirty days, if it shall appear to the court that the property is liable for taxation and has not been assessed, the court shall enter an order fixing the value thereof at the fair cash value estimated as required by law; and he shall certify the assessment of said property and its value together with such other facts as may be required by law or directed by the court to appear in said judgment, to the Department of Revenue and likewise to the sheriff of the county, together with the amount of penalty and cost of assessment, in order that the taxes due the Commonwealth, county, school district or any other taxing district may be collected, with the penalty and costs; if not liable for taxes, he shall make an order to that effect. The judgment of the court shall have the same force and effect as the judgment of the court in civil cases. Either party may appeal from a decision of the county court to the circuit court, and then to the Court of Appeals as in other civil cases, except that no appeal bond shall be required where the appeal is by the Commissioner of Revenue acting as the relator. In the event the owner of said property fails to pay the tax assessed, interest, penalties, and costs, the lien under the attachment may be enforced and a sufficiency of the property sold to pay said obligation to the Commonwealth of Kentucky, county, school district or other taxing district. All persons owning property which may be assessed as herein provided, shall in addition to the taxes and interest from the time the taxes should have been paid, pay the costs of the proceedings and a penalty of twenty per cent (20%) on the amount of the taxes due the state and county, or school district, or other taxing district, except where such property shall have been duly listed and the taxes paid thereon within the time prescribed by law,

and except where some other or different penalty is expressly provided by law. The taxes, costs and penalties shall be collected, and accounted for as other taxes and penalties are required to be collected, and by the same officers. The county clerk shall enter all such assessments in his book to be kept for that purpose, showing the date of the assessment, the name of the person against whom the assessment is made, the location and description of the property assessed, and the value thereof; and the officer collecting the taxes shall, when the same is paid, notify the clerk of its payment, which payment shall be noted by the clerk opposite the entry of such assessment.

4260b. It shall be the duty of the county clerk, upon the filing of any statement by any agent, accountant or attorney for the Department of Revenue for the assessment of omitted property, to enter the name of the attorney for the Department of Revenue, whose name is signed to such statement as attorney for said Department, and to enter the name of the county attorney for said county, as attorney on behalf of the State, county, school district or districts, and other taxing districts for which the Commissioner of Revenue is authorized to act as relator in such proceeding; and it shall be the duty of said county attorney to appear and prosecute or assist in the prosecuting of said proceeding in all the courts to which the same may be taken for trial. If there be a judgment assessing said property for taxation, said judgment in each case shall recite whether or not the county attorney was present and assisted in the trial of said proceeding, and when he is so present and assists in said proceeding, he shall be allowed as compensation for his services until the expiration of the present term of office, fifteen per centum (15%) of the amount of said State and County taxes collected pursuant to such judgment, and after the expiration of the present term of office of the county attorneys, he shall be allowed as compensation for his services only ten per centum (10%) of the

amount of said taxes assessed and collected pursuant to such judgment. The State and county shall be liable respectively for the payment only of said percentage allowance of compensation to the county attorney on the amount which each collects, and same shall be paid to the county attorney within thirty days after the collection of said taxes, and charged against the fund to which the tax was credited.

4260c. No field agent, accountant or attorney of the Department of Revenue shall be permitted to collect any monies due either the Commonwealth or any county, school district or other taxing district without specific written authority from the Commissioner of Revenue. Should any such field agent, accountant or attorney violate the provisions of this section, he shall be deemed guilty of a misdemeanor; and, upon indictment and conviction in the county in which said acts were done, he shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and to removal from office.

4260d-1. In proceedings that may now be pending, or that may hereafter be brought by the Commonwealth, or by the Commonwealth on relation of some officer authorized to bring such proceeding, wherein it is sought to vacate or set aside any order or judgment of the court assessing for taxes for State, county, school district or other taxing district purposes, any property or omitted property, on the ground of inadequacy of valuation, or on the ground of mistake, or on the ground of fraud, or on any other ground, and wherein it is sought to cause a larger assessment to be adjudged, the Commissioner of Revenue shall have the power and authority to direct the drawing of warrants on the State Treasury to pay from time to time such court costs and reasonable expenses as may be incurred on behalf of the Commonwealth, including the cost of taking and filing depositions and witness' fees, and including payment of official court reporters for services and for a copy of the testimony or depositions.

4261. Field agents, accountants and attorneys of the Department of Revenue shall report to the Commonwealth's attorney, county attorney, or grand jury, when directed to do so by the Commissioner of Revenue, all persons who may be guilty of violating the laws governing income, license, excise and other taxes, and shall cause said offenders to be prosecuted.

4262. Any field agent, accountant or attorney, when authorized in writing by the Commissioner of Revenue, shall have the right to investigate the accounts, books and records of all officers whose duty it may be to receive or collect money due the Commonwealth, county, school district or other taxing district, and report to the Commissioner of Revenue from time to time, all delinquent officers and the amounts collected by them which they have failed to pay into the Treasury of the State, or into the treasury of the county, school district, or other taxing district; and any such field agent, accountant or attorney, from time to time, shall report to the fiscal court of the county all delinquent officers and the amounts owing by them to the county, if any; and any said field agent, accountant or attorney shall report all amounts which it was the duty of such officer to have collected and which they have failed to collect, and the person, or persons, owing same. Any field agent, accountant or attorney shall report all excessive charges made by such officer, and also those who have received or retained a greater sum for their services or the service of their deputies than is allowed by law, and all such other facts by which the Commonwealth, county, school district or other taxing district is being unlawfully deprived of any money, and any other facts touching the interest of the Commonwealth, or county, school district and other taxing district as such field agent, accountant or attorney may deem important, or of which the Commissioner of Revenue, county attorney, county judge or fiscal court of the county may require information.

4263. It shall be the duty of the field agent, accountant or attorney, and he shall have authority when directed by the Commissioner of Revenue, to institute suits, motions or proceedings in the name of the Commonwealth, and of any county, school district or other taxing district, on relation of the Commissioner of Revenue, against any delinquent state, county or district officer or any person, firm or corporation to recover any money which may be due the Commonwealth, or any county, school district, or other taxing district, or license taxes due the Commonwealth, or any inheritance taxes due the Commonwealth, or any excise or income taxes due the Commonwealth or any other taxes due the Commonwealth, or any county or school district or other taxing district; and, in all such suits, motions or proceedings in which a judgment is recovered, the party in default shall, in addition to the amount for which he is liable to the Commonwealth or any county or school district or any other taxing district, be adjudged to pay a penalty of twenty per cent (20%) on the amount due the Commonwealth of Kentucky and any county thereof or any taxing district or any school district.

4019a-13. In addition to the penalties provided in the preceding section, failure to list any note or bond shall be a bar to any action upon the same in any court and may be pleaded as a complete defense.

4267. It shall be the duty of the Commissioner of Revenue to prosecute diligently or cause to be prosecuted by field agents, accountants and attorneys employed by him, the collection of all back taxes, license fees, judgments or other monies, claims or demands due the Commonwealth from any corporation, association, firm, company, or individuals, and he shall have the power to direct field agents, accountants and attorneys employed by him to prosecute the collection of all delinquent taxes, taxes on omitted property of delinquents, license fees or omitted license, inheritance, estate, income, excise, or franchise tax of any individual, partnership, com-

pany, corporation or association due the State. Should any life insurance company, casualty company, marine insurance, fire insurance, security or indemnity company, be in debt to the Commonwealth for back taxes, or should any of such companies fail to pay into the State Treasury the correct amount of taxes due the State, the Commissioner of Revenue shall cause an investigation to be made of their books and accounts, and employ such expert accountants as he may deem necessary for such work. The expense for such accountants and other expenses of such examination shall be paid by the delinquent companies in addition to the taxes and penalties which may be due and owing by said companies. And the inclusion of the power to the Commissioner of Revenue to investigate or cause to be investigated the books and accounts of those engaged in the business of insurance for the purposes herein set forth shall not be construed as an exclusion of the power to said Commissioner to also investigate or cause to be investigated the books and accounts of persons, partnerships, associations or corporations engaged in other types of business for the same purpose, and who have failed to pay into the State Treasury the correct amount of tax due the State.

§ 5. Any person, firm, association or corporation that has failed to give its list of taxable property, in whole or in part, because it was not called upon by the County Tax Commissioner, or for any other reason, may at any time, and it is hereby made its duty, after the County Tax Commissioner has returned his books, to list the same with the Department of Revenue of the Commonwealth of Kentucky, by reporting to the Department the full details and correct description of the property so omitted and the value thereof; and the Department of Revenue shall provide appropriate forms and records for entering such assessments in the said Department, and the Department of Revenue shall certify to the county court clerks, sheriffs and tax collectors of the respective school districts and other taxing districts, the proper description

and value of the property situated within the respective counties, school districts and other taxing districts, which is so reported and assessed by the Department of Revenue and which is subject to or liable for the payment of taxes to the counties, school districts and other taxing districts. The Department of Revenue hereby is authorized to determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation; and any person dissatisfied with or aggrieved by the finding and the ruling of the Department of Revenue, may appeal from said finding, decision or ruling to the Franklin Circuit Court by filing in the clerk's office of said court a petition of appeal within twenty days of the date of notification of such finding or ruling. The decision of the Franklin Circuit Court may be appealed by the Commonwealth or the taxpayer to the Court of Appeals as provided by the Civil Code of Practice. The Department of Revenue hereby is authorized to prescribe and promulgate such rules, regulations, forms and records as he may deem necessary and proper for the listing, assessment and certifying of the property so assessed or to be assessed for taxation. Except as hereinafter provided in Section 6, all property listed under this section shall be liable for the payment of the taxes, interest and penalties now or hereafter provided by law, for failure to list said property either with the County Tax Commissioner or other assessment board, commission or authority within the time and in the manner prescribed by law. Provided, however, that if the taxpayer voluntarily lists property under this section, the twenty per cent penalty heretofore provided by law for revenue agents and now provided to be paid to the Department of Revenue, shall not apply.

§ 6. For a period of four months from the effective date of this Act, any person, firm, co-partnership, association or corporation that has failed to list for taxation any real property, tangible personal property or intangible property, may

list same with the Department of Revenue as provided in Section 5 of this Act, and may pay the amount of taxes which would have been due thereon for each of the respective years for which such property was subject to assessment and the payment of taxes plus accrued interest thereon, at the rate of six per cent (6%) per annum from the date the taxes thereon should have been paid had said property been listed as provided by law; and any person, firm, co-partnership, association or corporation so listing said property within four months from the effective date of this Act, shall not be liable or required to pay any penalty thereon provided all taxes and accrued interest thereon as herein provided are paid within thirty days from the date said property is finally assessed by the Kentucky Tax Commission as provided in Section 5 of this Act.

§ 7. One-fourth of the twenty per cent (20%) penalty collected on taxes due the Commonwealth or county, or school district or other taxing district, shall be paid to and retained by the Commonwealth of Kentucky as compensation for the services of the Department of Revenue, its field agents, accountants and attorneys in enforcing the payment of said taxes, and covered into the State Treasury and credited to the General Expenditure Fund. The remaining three-fourths of said twenty per cent penalty collected on taxes due the Commonwealth or any county, school district or other taxing district, shall be covered into the State Treasury and credited to a fund to be designated and known as the "Delinquent Tax Fund", and so much thereof as may be necessary shall be used and applied to the administration and enforcement of the provisions of this Act. All salaries, fees and expenses authorized by this Act, except the fees of county attorneys shall be payable out of said Delinquent Tax Fund upon certifications or requisitions of the Commissioner of Revenue.

§ 8. The provisions of this Act are severable. If any clause, provision, section, paragraph or portion thereof, or

if the application of any clause, provision, section, paragraph or portion thereof shall be held unconstitutional or invalid, such decision regarding the clause, provision, section, paragraph or portion thereof shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent that each clause, provision, section, paragraph or portion thereof shall constitute a severable unit.

§ 9. The Commonwealth of Kentucky shall have a lien superior to all other liens upon all property, real, personal and mixed, tangible and intangible, owned by the taxpayer at the time the property or the taxpayer becomes subject to the tax, for any property tax, license tax, inheritance or estate tax, excise tax or income tax against which no exemptions shall be pleaded.

§ 10. All laws or parts of laws in conflict herewith to the extent of such conflict hereby are repealed.

§ 11. Whereas there is great confusion existing in the law due to the abolition of the offices of Revenue Agent, and whereas there is no adequate means by which the Commonwealth, its counties, school districts or other taxing districts are protected and enabled to assess omitted property and collect delinquent taxes which are daily becoming barred by the Statute of Limitation, and whereas there is now insufficient revenue to meet the needs of the Commonwealth and its agencies, the counties, school districts and other taxing districts, an emergency is hereby declared to exist and this Act shall become a law and be effective immediately upon its passage and approval by the Governor.

Ordered that said bills be printed and referred.

Dr. Shields moved that the Clerk call the roll of the House to ascertain the sense of the members as to meeting on Saturday, December 26.

Said motion was agreed to.

Thereupon the Clerk called the roll and the following members announced their intention of attending a session on Saturday, December 26, viz.:

Those who voted in the affirmative were—

W. T. Baker	Price Holbrook	L. K. Rice
B. F. Bedford	Clyde S. Howard	Wade H. Riley
Reuben J. Boling	Ira W. Hulette	Joe E. Robinson
Douglas Bolling	J. H. Jones	John C. Robinson
Ollie J. Bowen	O. C. Jones	W. T. Rollo
Wallace Brown	J. F. Ladd	A. W. Ross
Jas. C. Carter	Leslie Larrimore	Carl Scheben
V. O. Chandler	Robert E. Lee	Carl Schneider
Roscoe Claxon	T. B. McConnell	Ray O. Shehan
Roy Conway	J. L. McDermott	Dr. B. F. Shields
Herbert Cook	Lloyd MacDonald	P. L. Sidebottom
Harry Davis	John Marshall	Chester D. Silvers
Sam Dever	D. T. Matlack	Bruce Sloan
Howard G. Early	Duke Mayfield	Henry Stewart
Garland Embry	W. H. Miller	J. J. Thomas
Walter R. Fannin	W. E. Mull	R. Van Bever, Jr.
T. P. Fitzpatrick	Rodes K. Myers	Joseph L. Wall
H. Myer Garner	J. C. Nickell	Henry Ward
G. W. Garrett	Russell O'Neill	L. R. Wells
Ferd A. Gnau	Mel Petry	Charles Wylie
Jas. T. Hamilton	A. W. Pfeiffer	
W. L. Hampton, Jr.	J. C. Ramey	—64

Those who voted in the negative were—

H. T. Baker	George S. Clay	Tyler Munford
Dr. R. A. Byers	R. T. Kirkman	Dr. H. S. Swope

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Mr. Wells moved that when the House adjourn today, it adjourn to meet again on Saturday, December 26, at one o'clock P. M.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up, for consideration, the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration, from the Calendar, bills of the following titles, viz.:

H. B. 1. An Act to provide for the payment of unemployment compensation to designated classes of persons and for the administration thereof; the declaration of a state public policy; an enumeration of benefits; prescribing benefits, etc.

H. B. 5. An Act appropriating money for the 1936-1937 Special Session of the General Assembly of the Commonwealth of Kentucky and declaring an emergency to exist.

Ordered that said bills be read a second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Dr. Shields moved that a bill entitled:

H. B. 1. (For title see House Journal of today, *ante.*)

Be recommitted to the Committee on Kentucky Statutes No. 1, and that said bill retain its place on the Calendar.

The Speaker announced that he had referred bills which were introduced on yesterday, as follows, viz.:

H. B. 2. To Committee on Banks and Banking.

H. B. 3. To Committee on Public Utilities.

H. B. 4. To Committee on Revenue and Taxation No. 2.

The Speaker announced the personnel of the aforesaid Committee to be the same as for the Regular session, 1936, viz.:

BANKS AND BANKING

Ben Grogan, Chairman	B. F. Bedford
Charles P. Farnesley	J. L. McDermott
H. C. Records	Roger Wells
Henry Ward	Ben Johnson

PUBLIC UTILITIES

Ollie Bowen, Chairman	Wallace Brown
O. C. Jones	John McDermott
George Clay	W. H. Miller
John C. Robinson	J. C. Nickell

REVENUE AND TAXATION No. 2

Thos. P. Fitzpatrick, Chairman	Ben Johnson
George Dunlap	Wade Riley
Chas. P. Farnsley	Fred Gnau
George Clay	Claude Hammons
	H. H. Allen

Mr. Gnau moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

SATURDAY, DECEMBER 26, 1936.

The House was opened with prayer by the Reverend Albert G. Stone of the Methodist Episcopal Church, of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Price Holbrook	A. W. Pfeiffer
W. T. Baker	Clyde S. Howard	J. C. Ramey
B. F. Bedford	Ira W. Hulette	Harry C. Records
Reuben J. Boling	John M. Hunnicut	L. K. Rice
Douglas Bolling	Ben W. Johnson	Wade H. Riley
Ollie J. Bowen	J. H. Jones	Joe E. Robinson
Wallace Brown	O. C. Jones	John C. Robinson
Dr. R. A. Byers	J. F. Ladd	W. T. Rollo
V. O. Chandler	Leslie Larrimore	A. W. Ross
Floyd Clark	Robert E. Lee	Carl Scheben
Roscoe Claxon	M. T. McCarthy	Carl Schneider
Roy Conway	T. B. McConnell	Ray O. Shehan
Herbert Cook	J. L. McDermott	Dr. B. F. Shields
Harry Davis	Lloyd MacDonald	P. L. Sidebottom
Sam Dever	W. F. McGary	Chester D. Silvers
Stanley S. Dickson	Elmer McGlothen	Bruce Sloan
Howard G. Early	John Marshall	H. C. Steely
Garland Embry	C. S. Matherly	Henry Stewart
Walter R. Fannin	D. T. Matlack	W. R. Tapp
Chas. P. Farnsley	Duke Mayfield	J. J. Thomas
T. P. Fitzpatrick	W. H. Miller	R. Van Bever, Jr.
G. W. Garrett	John B. Mollett	S. J. Wagner
Ferd A. Gnau	W. E. Mull	Joseph L. Wall
Eugene Gough	Tyler Munford	Henry Ward
Jas. T. Hamilton	Rodes K. Myers	L. R. Wells
C. L. Hammons	J. C. Nickell	W. G. Williams
W. L. Hampton, Jr.	Russell O'Neill	Charles Wylie
Thomas W. Hines	Mel Petry	

Mr. Davis moved that the reading of the Journal of Thrusday's proceedings be dispensed with.

Said motion was agreed to.

Ordered that Mr. J. C. Carter be granted a leave of absence.

Mr. Munford moved that the House do now recess for fifteen minutes.

Said motion was agreed to.

And then the House recessed.

After a time the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 5. An Act appropriating money for the 1936-37 Special Session of the General Assembly of the Commonwealth of Kentucky and declaring an emergency to exist.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section One (1). There is hereby appropriated out of the General Expenditure Fund for the payment of salaries and other necessary expenses of the 1936-37 Special Session of the General Assembly the sum of Seventy-Five Thousand Dollars ($75,000.00).

Section Two (2). Whereas, the funds heretofore appro-

priated for the General Assembly of the Commonwealth of Kentucky for 1936 are practically exhausted and whereas insufficient funds are available for the 1936-37 Special Session of the General Assembly, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Mr. Hunnicut moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Herbert Cook	Thomas W. Hines
Henry H. Allen	Harry Davis	Price Holbrook
W. T. Baker	Sam Dever	Clyde S. Howard
B. F. Bedford	Stanley S. Dickson	Ira W. Hulette
Reuben J. Boling	Howard G. Early	Ben W. Johnson
Douglas Bolling	Garland Embry	J. H. Jones
Ollie J. Bowen	Walter R. Fannin	O. C. Jones
Wallace Brown	T. P. Fitzpatrick	J. F. Ladd
Dr. R. A. Byers	G. W. Garrett	Leslie Larrimore
V. O. Chandler	Ferd A. Gnau	Robert E. Lee
Floyd Clark	Jas. T. Hamilton	M. T. McCarthy
Roscoe Claxon	C. L. Hammons	T. B. McConnell
Roy Conway	W. L. Hampton, Jr.	J. L. McDermott

Lloyd MacDonald	A. W. Pfeiffer	Bruce Sloan
W. F. McGary	J. C. Ramey	H. C. Steely
Elmer McGlothen	Harry C. Records	Henry Stewart
John Marshall	L. K. Rice	W. R. Tapp
C. S. Matherly	Wade H. Riley	J. J. Thomas
D. T. Matlack	Joe E. Robinson	R. Van Bever, Jr.
Duke Mayfield	John C. Robinson	S. J. Wagner
W. H. Miller	W. T. Rollo	Joseph L. Wall
John B. Mollett	A. W. Ross	Henry Ward
W. E. Mull	Carl Scheben	L. R. Wells
Tyler Munford	Ray O. Shehan	W. G. Williams
J. C. Nickell	Dr. B. F. Shields	Charles Wylie
Russell O'Neill	P. L. Sidebottom	
Mel Petry	Chester D. Silvers	—79

There voted in the negative—

John M. Hunnicut —1

Resolved that the title thereof be as aforesaid.

Mr. McCarthy moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickson moved that Master Billy Thomas, son of J. J. Thomas, be appointed an Honorary Page of this House.

Said motion was agreed to.

Mr. Dickson moved that an indefinite leave of absence be granted to Mr. Dunlap.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Committees to report.

Said motion was agreed to.

Thereupon Dr. Shields of the Committee on Kentucky Statutes No. 1, to which the same had been recommitted, reported a bill entitled:

H. B. 1. An Act to provide for the payment of unemployment compensation to designated classes of persons and for the administration thereof; the declaration of a state public policy; etc.

With a Committee Amendment thereto.

Thereupon the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 1. (For title see title above.)

With a Committee amendment thereto.

Said bill is as follows, viz.:

H. B. 1. An Act to provide for the payment of unemployment compensation to designated classes of persons and for the administration thereof; the declaration of a state public policy; an enumeration of benefits; prescribing benefits, elegibility conditions, and disqualifications for benefits; defining claims for benefits; and setting up methods of procedure for claiming and determining benefit, providing for hearings and review of disputed claims; exacting certain contributions from employers and employees and providing for a method of fixing future rates; providing for the determination of the period, election and termination of employers' coverage; providing for the establishment of an unemployment compensation fund and its administration and for the creation therein of certain accounts and for its discontinuance in the event of

certain contingencies, and for the procedure relative thereto; setting up the administrative organization and prescribing salaries; providing for the administration; establishing an employment service and prescribing salaries and accepting the Wagner-Peyser Act, as amended, establishing an unemployment compensation administration fund, and special accounts therein and making appropriations therefor; providing for the collections of contributions; providing for the protection of the rights and benefits; providing certain penalties; providing for representation in court, declaration of nonliability of the state; defining certain terms; exempting certain employment; appropriating all monies collected and received under this act, providing for reciprocal benefit agreements with other states or with the United States; providing for saving clause; providing for separability clause; repealing conflicting lays; providing for concurrence with the Federal Act and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SHORT TITLE

§ 1. This Act shall be known and may be cited as the "Unemployment Compensation Law".

DECLARATION OF STATE PUBLIC POLICY

§ 2. As a guide to the interpretation and application of this Act, the public policy of this State is declared to be as follows:

Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this State. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the General Assembly to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achieve-

ment of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The General Assembly, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this State require the enactment of this measure, under the police powers of the State, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

BENEFITS

§ 3. (a) *Payment of Benefits.* Twenty-four months after the date when contributions (as defined in section 19(d)) first accrue under this Act from any employer (as defined in Section 19(f)), benefits shall become payable to any individual who thereafter is or becomes unemployed and eligible for benefits. All benefits shall be paid through the employment offices, or such other agency as the Social Security Board may approve, at such times and in such manner as the Commission may prescribe.

(b) *Weekly Benefit Amount for Total Unemployment.* Each eligible individual who is totally unemployed (as defined in Section 19(1)) in any week shall be paid, with respect to such week, benefits (computed to the next highest multiple of twenty cents) at the rate of fifty per centum of his full-time weekly wages (as defined in subsection (f) of this section) from the employer against whose weeks of employment (as defined in Section 19(q)) of such individual such benefits are chargeable under this Act, but not more than fifteen dollars per week, nor less than either five dollars or three-fourths of his full time, whichever is the lesser.

(c) *Charging of Benefits against Past Weeks of Employment.* Each individual's benefits shall be limited in accordance with the ratio provisions of subsection (e) of this section. In no event shall any one calendar week be chargeable as more than one week of employment. If during any one calendar week an individual has rendered services for more than one employer, his benefits shall be chargeable only against the week of employment for the employer by whom the plurality of his wages for such week was payable. An individual's benefit shall be charged against those of his weeks of employment, against which benefits have not previously been charged hereunder in the inverse chronological order in which such weeks occurred, provided that:

(1) If the amount chargeable against a particular week of employment under the provisions of subsection (e)(1) of this section equals less than one-eighth of his weekly benefit amount, or, under the provisions of subsection (e)(2) of this section, equals less than one-fortieth of his weekly benefit amount, no week of employment shall be chargeable therewith; and such amounts shall be charged to the fund's pooled account; and,

(2) If the amount chargeable against a particular week of employment under the provision of subsection (e)(1) of this section equals one-eighth of his weekly benefit amount, or more, or, under the provisions of subsection (e)(2) of this section, equals one-fortieth of his weekly benefit amount or more, such week of employment shall be charged in full.

(d) *Weekly Benefit Amount for Total Unemployment Chargeable against More than One Employer's Account.* If, in accordance with the provisions of subsections (c) and (e) of this section, any benefit for a particular week of total unemployment is chargeable against weeks of employment by more than one employer, such benefit shall be equal to the total of the amounts chargeable against each chargeable week of employment by each such employer.

(e) *Ratio Provisions and Duration of Benefits.* Benefits shall be paid each unemployed and eligible individual, with respect to his total unemployment occurring within any period of fifty-two consecutive weeks:

(1) In the ratio of one-fourth of his applicable weekly benefit amount to each uncharged week of employment occurring within the one hundred and four consecutive weeks preceding the close of his most recent week of employment, except that his aggregate benefits thus payable shall not exceed fifteen times his highest applicable weekly benefit amount during such fifty-two week period.

(f) *Determination of Full-Time Weekly Wage.* The "full-time weekly wage" of any individual means the product obtained by multiplying his "hourly rate of earnings" by his "full-time weekly hours", both of which shall be determined and redetermined at reasonable intervals in accordance with rules prescribed by the Director, Division of Unemployment Compensation, with the advice of the associate directors. In computing the benefits payable to any individual with respect to a particular week of his total unemployment, his "full-time weekly wage", "hourly rate of earning" and "full-time weekly hours" shall be determined with respect to each employer against those weeks of employment of such individual, his benefits are then chargeable under this Act.

(1) An individual's "full-time weekly hours" shall be determined as follows: There shall be added together the hours worked by the individual in all those weeks of employment for a particular employer, occurring within the fifty-two weeks preceding the close of his most recent week of employment for that employer, in which he worked twenty-eight hours or more. Such total hours shall be divided by the number of such weeks, and the resulting weekly average shall constitute the employee's full-time weekly hours, until a subsequent determination is made. If the application of the above method would be unreasonable or arbitrary as applied

in a particular case, the "full-time weekly hours" for such individual shall be determined in accordance with fair and reasonable methods prescribed by the Commission.

(2) An individual's "hourly rate of earnings" shall be determined by dividing his total wages for the last thirteen weeks or if there are less than thirteen, all his weeks of employment for a particular employer, which precede the close of his most recent week of employment for that employer, and during which he was employed for his full-time weekly hours or more, by the total number of hours of employment within such weeks; the quotient so obtained shall be his hourly rate of earnings until a subsequent determination is made, provided that if the application of such method of determination would be unreasonable or arbitrary as applied in a particular case, the "hourly rate of earnings" of such individual shall be determined in accordance with fair and reasonable methods prescribed by the Commission.

(3) The Commission may, after fair notice and opportunity to be heard, determine the full-time weekly hours customarily worked, or the hourly rate of earnings customarily received, or both, by employees in any trade or industry or any type of employment therein, in this State, in any part of this State, or in any establishment of a particular employer in this State. Such determination shall be made and published in accordance with the provisions of this Act for general rules. Thereafter, until such determination is amended or rescinded, such weekly hours or such hourly rate of earnings, or both, shall be deemed to be the full-time weekly hours or the hourly rate of earnings, or both, of any individual employed by an employer in such trade, industry or type of employment, provided that, upon showing of good cause therefor, the Commission may exempt any such individual or employer from the application of such determination if it finds that the application thereof to him would be impracticable or inequitable.

BENEFIT ELIGIBILITY CONDITIONS

§ 4. An unemployed individual shall be eligible to receive benefits with respect to any week only if it has been found by the Commission that:

(a) He has made a claim for benefits in accordance with the provisions of Section 6(a) of this Act.

(b) He has registered for work at the employment office designated by the Director within such time limits and with such frequency and in such manner (such as in person or in writing) as the Commission may by general rule prescribe, provided that failure to comply with this condition may be excused by the Commission upon a showing of good cause therefor.

(c) He is physically and mentally able to work, and is available for work.

(d) Prior to any week for which he claims benefits for total unemployment, he has been totally unemployed for a waiting period of at least three weeks with respect to which he received no benefits but during wich he was eligible for benefits in all other respects, except for the requirements of subsection (a) and subsection (e) of this section, and was not ineligible for benefits under any provision of Section 5, except subsection (f) thereof of this Act. Such three weeks of total unemployment need not be consecutive, but shall be accumulated over the period of twenty-six consecutive weeks preceding any week for which he claims benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of total unemployment; and provided further that such three weeks of total unemployment occur after benefits first could become payable to any individual under this Act.

(e) He has had at least twenty weeks of employment within the fifty-two consecutive weeks preceding the close of his most recent week of employment.

DISQUALIFICATION FOR BENEFITS

§ 5. An individual shall be eligible for benefits:

(a) For the week in which he has left work voluntarily without good cause or has been discharged for misconduct and for not less than two nor more than the nine next following weeks (in addition to the waiting period), as determined by the the Commission in each case according to the circumstances of the case.

(b) If an otherwise eligible individual fails, without good cause, either to apply for suitable work when notified by the employment office, or to accept suitable work when offered him or return to his customary self-employment, if any, he shall thereby become ineligible for benefits for the week in which such failure occurred and for not less than two nor more than the nine next following weeks (in addition to the waiting period) as determined by the Commission.

"Suitable work" shall mean any work for which the individual in question is reasonably fitted, which is located within a reasonable distance of his residence or last employment, and which is not detrimental to his health, safety or morals.

Notwithstanding any other provision of this Act, no work shall be deemed suitable, and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any *bona fide* labor organization.

(c) An individual who has left (or partially or totally lost) his employment with an employer because of a strike or other *bona fide* labor dispute shall not be eligible for benefits

from such (or any previous) employer's account for any week in which such strike or other *bona fide* labor dispute is in active progress in the establishment in which he is or was employed.

(d) An individual shall not be eligible for benefits from a given employer's account for any week in which he is employed due to an act of God, fire or other catastrophe, or act of civil or military authority, directly affecting the place in which he was employed by such employer.

(e) For any week with respect to which the individual is receiving or has received remuneration in the form of:

1. Wages in lieu of notice, or any payment by the way of compensation for the loss of wages through an Employee Pension Plan;

2. Compensation for disability under the Workmen's Compensation Law of any state or under a similar law of the United States; or

3. Old Age Benefits under Title II of the Social Security Act, as amended:

provided that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week if otherwise eligible, benefits reduced by the amount of such remuneration.

(f) Chargeable against weeks of employment for a particular employer if he has not been employed by that employer for a probationary service period of at least two weeks of employment.

Claim for Benefits

§ 6. (a) *Filing.* Claims for benefits shall be made in accordance with such regulations as the Director may prescribe, at the employment office nearest either to the individual's place of residence or to the place of his most recent employment. An employer shall if requested give to each of his employees at the time such employee becomes totally un-

employed, a printed statement of the regulations prescribed by the Director relating to the filing of claims for benefits. Such printed statements shall be supplied by the Director to each employer without cost to him.

(b) *Initial Determination.* A deputy or representative designated by the Director, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of the facts found by him, many determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or may refer such claim to the Commission, which shall make the same determination with respect thereto in accordance with the procedure prescribed in subsection (e) of this section. He shall promptly notify the claimant and the employer or employers against whose reserve account such benefits are chargeable, of the decision and the reasons therefor. Unless the claimant or such employer or employers within seven calendar days after the delivery of such notification, or within seven calendar days after such notification was mailed by registered mail to his last known address, files with the Commission an appeal from such decision and applies for a hearing, such decision shall be final and benefits shall be paid or denied in accordance therewith. In the event of an appeal no benefits shall be paid until the final determination of that appeal by the last body to which the appeal is presented and such benefits, if any awarded, shall bear interest at the rate of six per cent (6%) per annum from the date said benefit first became due until paid.

Upon motion of either party and a sufficient showing of reason and necessity therefor, the circuit court to which an appeal is taken may continue in force the award, judgment or order appealed from, pending its decision of such appeal, for such period, but to be suspended upon the execution by the

adverse party of a supersedeas bond for appeal to the Court of Appeals.

(c) *Appeals.* Unless such request for hearing is withdrawn, the Commission, after affording the parties reasonable opportunity for fair hearing upon not less than ten days' notice, shall affirm, modify or set aside the findings of fact and decision of the deputy. The parties shall be duly notified of such decision and the reasons therefor which shall be deemed to be final, unless within twenty days after the date of such decision, an appeal is taken to the Circuit Court.

(d) *Continuous Jurisdiction.* Upon their own initiative, or upon application of any party in interest, on the ground of a change in conditions, or because of a mistake as to fact, the Commission may, at any time within one year after the making thereof, review an award of benefits or the denial of a claim therefor, in accordance with the procedure prescribed in respect to claims, and in accordance with such review, issue a new decision which may award, terminate, continue, increase or decrease such benefits. Such new order shall not affect any benefits paid before the date thereof under authority of the prior order and shall be subject to judicial review as provided in this section.

(e) *Procedure.* The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with reasonable rules prescribed by the Commission for determining the rights of the parties, the hearing being conducted in a summary manner. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing shall be reduced to writing, but need not be transcribed unless the disputed claim is further appealed.

(f) *Oaths and Witnesses.* In the discharge of the duties imposed by this Act, the members of the Commission, or the duly authorized representatives of the Commission as desig-

nated by its rules, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and to issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary and relevant as evidence in connection with the disputed claim or the administration of this Act.

(g) *Subpoenas.* In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this State within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission, or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a member thereof, or its duly authorized representative, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court without just cause may be punished by said court as a contempt thereof.

(h) *Protection against Self-Incrimination.* No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission or a member thereof, on the ground that the testimony or evidence, documentary or otherwise required of him, may tend to incriminate him or subject him to a penalty or forfeiture; but no person, firm or corporation shall be prosecuted or subjected to any suit, penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or its agent or employee is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such witness so testifying shall not be exempt

from prosecution and punishment for perjury committed in so testifying.

(i) *Witness Fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Commission. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this Act.

(j) *Appeal to Courts.* Any decision of the Commission, in the absence of an appeal therefrom as herein provided, shall become final twenty days after the date thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission, as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney who is designated by the Director for that purpose or at the request of the Director, by the Attorney General.

(k) *Court Review.* Within twenty days after the decision of the Commission has become final, any party aggrieved thereby may secure judicial review thereof by filing a petition in the Circuit Court of the county in which the claimant was last employed by an employer whose reserve account is affected by such claim, against the Commission for the review of its decision, in which action any other party to the proceeding before the Commission shall be made a defendant. Such petition shall state fully the grounds upon which a review is sought, assign all errors relied on and shall be verified by the petitioner, who shall furnish copies thereof for each defendant to the Commission, who shall deliver one such copy to each of such defendants. Summons shall issue upon the petition directing the Commission to file answer within fifteen days after service thereof; such summons shall be served upon a member of the Commission, or upon such person as the Commission may designate and such service shall be deemed com-

plete service upon all members of the Commission. With its answer, the Commission shall certify and file with the Court all documents and papers and a transcript of all testimony taken in the matter, and orders made therein, together with its findings of fact and decision therein, provided, however, that, if consented to by the petitioner and the adverse party, an abstract of any portion of the record may be certified by the Commission in lieu of certifying such portion of the record in full. The Commission may also, in its discretion, certify to such Court questions of law involved in any decision by it. Such actions, and the questions so certified, shall be heard by the Court in a summary manner upon the record certified by the Commission and shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Law of this State. The Court shall enter judgment affirming, modifying or setting aside the order or decision appealed from, or determining the question of law certified to it by the Commission, and may in advance of judgment, in its discretion, remand the case to the Commission for further proceedings in accordance with the direction of the Court. An appeal may be taken from the decision of the Circuit Court to the Court of Appeals, in the same manner but not inconsistent with the provisions of this Act, as is provided in equity cases. It shall not be necessary, in any judicial proceeding under this section to enter exceptions to the rulings of the Commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination.

CONTRIBUTIONS

§ 7. (a) *Payments.*

(1) On and after December 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment (as defined in Section 19g))

occurring during such calendar year. Such contributions shall become due and be paid monthly by each employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) *Rate of Contribution after* 1936. Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) One and eight-tenths (1.8) per centum with respect to employment during the calendar year, 1937;

(2) Two and seven-tenths (2.7) per centum with respect to employment during the calendar years 1938, 1939, 1940, 1941; and

(3) With respect to employment after December 31, 1941, the percentage determined pursuant to subsection (c) of this section.

(c) *Future Rates Based on Benefit Experience.* The Commission shall, for the year 1939 and for each calendar year thereafter, determine the contribution rate applicable to each employer on the basis of his actual experience in the payment of contributions credited to his reserve account and with respect to benefits charged against his separate reserve account, in accordance with the following requirements:

(1) Each employer's rate shall be two and seven-tenths (2.7) per centum, unless and until there shall have been one calendar year throughout which an individual in his employ could have received benefits if unemployed and eligible.

(2) Each employer's rate for the twelve months commencing January 1, of any calendar year, shall be determined on the basis of the record of his reserve account up to the

beginning of such calendar year. If, at the beginning of such calendar year, the balance in such reserve account equals at least five times the largest total amount of benefits charged against such account within any one of the three preceding calendar years, his contribution rate shall

(a) Be two (2) per centum if such balance equals or exceeds ten and three-tenths (10.3), but is less than thirteen and seven-tenths (13.7), per centum of his annual payroll for the preceding twelve consecutive calendar months;

(b) Be one (1) per centum, if such balance equals or exceeds thirteen and seven-tenths (13.7), but is less than seventeen and one-tenth (17.1), per centum of his annual payroll for the preceding twelve consecutive calendar months;

(c) Cease if such balance equals or exceeds seventeen and one-tenth (17.1) per centum of his annual payroll for the preceding twelve consecutive calendar months.

(3) If in any month any payment of benefits has been made from the pooled account because his reserve account is exhausted, for the twelve months immediately following, the employer's rate shall be three and seven-tenths (3.7) per centum.

(d) *Contribution by Employees.* (1) Each employee shall contribute to his employer's reserve account five-sixths (5/6) of one per centum and to the pooled account one-sixth (1/6) of one per centum of his wages paid by an employer with respect to his employment which occurs after December 31, 1936, after the expiration of the applicable probationary period, and after such employer has become an employer under Section 19(f) of this Act, provided that in no case shall the rate of contributions required of any employee exceed fifty (50) per centum of the total rate of contributions required from his employer with respect to the same time. Each employer shall, notwithstanding any provisions of law in this State to the contrary, withhold in trust the amount of his employees' contributions from their wages at the time such

wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his employees as the Commission may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the Commission in such manner and at such times as the Commission may prescribe. If any employer fails to deduct the contributions of any of his employees at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, but for the purpose of Section 14 hereof, such contributions shall be treated as employer's contributions required from him. As used in this Act, except when the context clearly requires otherwise, the term contributions shall include the contributions of employees pursuant to this section.

(2) Every employer who has elected to become subject to this Act or to cease to be subject to this Act, pursuant to the provisions of Section 8, shall post and maintain printed notices of such election on his premises, of such design, in numbers, and at such places as the Commission may determine to be necessary to give notice thereof to his employees.

(3) Contributions by employees, payable to the fund as herein provided, shall be exempt from garnishment, assignment, attachment, execution, or any other remedy for the collection of debts.

RATE OF CONTRIBUTIONS FOR 1936

§ 7-a. Each employer shall pay contributions equal to the following percentage of wages payable by him with respect to employment during the calendar year 1936:

On and for December 31, 1936, a lump sum equal to nine-tenths (9/10) of one per centum (1%) of the annual payroll of each employer for the calendar year 1936; provided, however, that the actual payment of such lump sum may be de-

ferred by permission of the Commission, to a date not later than January 15, 1937.

PERIOD, ELECTION, AND TERMINATION OF EMPLOYER'S COVERAGE

§ 8. (a) Any employment unit which is or becomes an employer subject to this Act within any calendar year shall be subject to this Act during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this Act only as of the first day of January of any Calendar year, if it files with the Commission, prior to the fifth day of January of such year, a written application for termination of coverage, and the Commission finds that there were no twenty different weeks within the preceding calendar year, within which such employing unit employed four or more individuals in employment subject to this Act. For the purpose of this subsection, the two or more employing units mentioned in paragraph (2) or (3) or (4) of Section 19(f) shall be treated as a single employing unit.

(c) An employing unit, not otherwise subject to this Act, which files with the Commission its written election to become an employer subject hereto for not less than two calendar years, shall with the written approval of such election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January, it has filed with the Commission a written notice to that effect.

UNEMPLOYMENT COMPENSATION FUND

§ 9. (a) *Establishment and Control.* There is hereby established a special fund to be known as the Unemployment Compensation Fund which shall be administered separate and apart from all public monies or funds of the State. This fund

shall consist of all contributions and monies paid into or received by it for the payment of benefits; of any property or securities acquired through the use of monies belonging to the fund, and of interest earned upon any monies paid into or received by it. Subject to the provisions of this Act, the Commission is vested hereby with full power, authority, and jurisdiction over the fund, including all monies and property or securities belonging thereto, and may perform any and all acts, whether or not herein specifically designated, which are necessary or convenient in the administration thereof consistent with the provisions of this Act.

(b) *Withdrawals.* The fund shall be administered exclusively for the purpose of this Act, and monies withdrawn therefrom, except for deposit in the Unemployment Trust Fund as provided in this Act, shall be used solely for the payment of benefits. Payment of benefits shall be made in accordance with the rules prescribed by the Commission and the Department of Finance consistent with the provisions of this Act. Withdrawals from the fund shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of monies in their custody, except that all vouchers drawn on the fund shall be approved in writing by the Commissioner of Finance.

(c) *Collection, Deposit and Investment.* The State Treasurer shall be *ex officio* the treasurer and custodian of the fund. He shall administer the fund in accordance with the provisions of this Act and the directions of the Commission and shall pay all vouchers approved by the Department of Finance and drawn upon the fund in accordance with such rules as the Commission may prescribe. All contributions, upon receipt thereof by the Commission, shall be forwarded to the State Treasurer, who shall immediately deposit them, together with any monies earned thereby while in his custody, and any other monies received by him for the payment of benefits from any source other than the Unemployment Trust Fund, with the

Secretary of the Treasury of the United States of America, to the credit of the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this State relating to the deposit, administration, release or disbursement of monies in the possession or custody of the State or monies deposited in any fund created by the State to the contrary notwithstanding. All monies belonging to the Unemployment Compensation Fund, and not otherwise deposited, invested or paid over pursuant to the provisions of this Act, may be deposited by the State Treasurer under the direction of the Department of Finance in any banks or public depositories in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of monies in the Unempolyment Compensation Fund, any other provisions of the law to the contrary notwithstanding. The State Treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount to be fixed by the Commission and approved by the Governor, and in a form prescribed by law and approved by the Attorney General. Premiums for the said bond shall be paid as provided in Section 13 of this Act.

(d) *Withdrawal of Fund for Payment of Benefits.* The Commission through the State Treasurer acting as its fiscal agent shall requisition from time to time from the Unemployment Trust Fund such amounts, not exceeding the amount standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period, but not for no other purpose. Upon receipt thereof the State Treasurer shall deposit such monies in the Unemployment Compensation Fund in a special benefit account, and shall issue his vouchers for the payment of benefits. All vouchers issued by the State Treasurer for the payment of benefits shall bear the signature of the State Treasurer and the approval in writing of the Commissioner of Finance. Any balance of

monies so requisitioned which remains unclaimed or unpaid in the special benefit account to the Unemployment Compensation Fund after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of the Unemployment Trust Fund, as provided in subsection (c) of this section.

(e) *Management of Funds upon Discontinuance of Unemployment Trust Fund.* The provisions of subsections (a), (b), (c), and (d) to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all monies, properties or securities therein, belonging to the Unemployment Compensation Fund of this State shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit and release such monies, properties or securities in a manner approved by the Commission and the Department of Finance, in accordance with the provisions of this Act, provided that such monies shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when

needed for the payment of benefits. The State Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission and the Department of Finance.

(f) *Reserve Accounts for the Employees of Each Employer.* There shall be credited to an employer's reserve account five-sixths (5/6) of all amounts contributed to the fund by each employer and by his employees. The remaining one-sixth (1/6) shall be credited to the pooled account as provided in subsection (h) hereof.

(g) *Joint Accounts.* Whenever two or more employers file an application with the Commission to mingle their single reserve accounts in a joint reserve account, as if they constituted a single employer, the Commission shall maintain such joint account as if it were a single account, subject to such general rules for the establishment, conduct and dissolution of joint accounts as the Commission may prescribe.

(h) *Pooled Account in the Unemployment Compensation Fund.* In addition to the separate or joint reserve accounts, provided in subsections (f) and (g), there shall be maintained within the Fund a pooled account mingled and undivided. There shall be credited immediately to such pooled account one-sixth of all contributions required under this Act, and there shall be credited thereto any balance remaining to the credit of the reserve account of an employer two years after the employer has ceased to be subject to the provisions of this Act, except as otherwise provided in subection (j) of this section, and all realized earnings and gains of the Fund and charged thereto all losses of the Fund.

(i) *Voluntary Contributions by Employers.* Any employer may at any time make voluntary payments, additional to the contributions required under this Act, to his reserve account, pursuant to the general rules established by the Commission.

(j) *Successive Employer's Reserve Account.* Any em-

ploying unit which acquires its organization, trade or business in whole or in part from an employer for whom a reserve account has been maintained by the Commission as herein provided, shall immediately notify the Commission thereof, and shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such acquisition as determined for the purposes of this Act by the Commission after appropriate notice and opportunity to be heard, as if no change with respect to such employer's reserve account had occurred.

(k) *Payment from Reserve Account.* The liability of each employer's reserve account shall be limited to the amount therein and to the payment of benefits based solely upon weeks of employment by such employer. Benefits chargeable against an employer's reserve account shall either all be paid in full, or shall be reduced at the same proportionate rate, in accordance with the following requirement whenever the current resources of an employer's reserve account, including contributions payable thereto but unpaid, and excluding a sum sufficient to pay all benefits potentially payable under pending claims with respect to unemployment occurring prior to such weeks, are less than the total sum of all benefits payable from such account with respect to unemployment occurring in such week, then all benefits payable from such account with respect to unemployment occurring in such week shall be proportionately reduced and paid irrespective of the weekly benefit amount that would otherwise be applicable, or if such current resources of such account are completely exhausted, no benefits shall be chargeable against such account with respect to such week. Any benefits paid in accordance with the foregoing requirements shall be charged against the recipient's weeks of employment in accordance with the provisions of Section 3 of this Act and the employer's reserve account chargeable therewith, and the Unemployment Compensation Fund, shall be deemed to have satisfied their entire liability

with respect thereto, but such benefit payments, as well as benefits due but not payable because of the complete exhaustion of an employer's reserve account may be supplemented as provided in subsection (1) of this section.

(l) *Payment from Pooled Account.* Benefits shall be charged against the pooled account only if and to the extent that an employer's reserve account does not equal the maximum amount of benefits then due and chargeable against such account as provided in this Act. To the extent that monies in the pooled account are sufficient therefor, the Commission shall supplement any reduced benefits payable pursuant to subsection (k) of this section or any benefits due but not payable because of the complete exhaustion of an employer's reserve account by the amount necessary to pay all individuals to whom reduced benefits are so payable, or to whom benefits are so due but not payable, with respect to any week pursuant to that subsection, aggregate benefits so far as practicable, equal to the same proportion of the maximum benefits that would otherwise be due to each such individual with respect to such week. Benefits paid or supplemented from the fund's pooled account shall be charged against the recipient's weeks of employment in accordance with the provisions of Section 3 of this Act.

ADMINISTRATIVE ORGANIZATION

§ 10. (a) There is hereby created in the Department of Industrial Relations a Division to be known as the Division of Unemployment Compensation, which shall be administered by a Director and two associate directors composing a board to be known as the Unemployment Compensation Commission, and a Division known as the Kentucky State Employment Service, created pursuant to Section 12 of this Act.

The Director of Employment Compensation and the associate directors shall be appointed by the Governor; the Director shall be appointed as a disinterested representative of the State and the public, and shall be *ex officio* Chairman

of the Commission; one associate director shall be appointed as a representative of labor and one associate director shall be appointed as a representative of employers. These appointments shall be made for terms not to exceed four years on the basis of their merit and fitness to perform the duties and exercise the responsibilities of their respective offices, and shall serve at the pleasure of the Governor.

Every member so appointed shall serve until his successor is appointed and qualified, and any appointment to a vacancy shall be for the unexpired term in question.

The Kentucky State Employment Service shall be administered by a full-time salaried Director who shall be appointed by the Governor and shall be subject to the supervision and direction of the Commissioner of Industrial Relations.

Each division shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budget, and duties, except insofar as the Commissioner of Industrial Relations may find that such separation in the local offices is impracticable because of the small size of the territory served or of the volume of work performed. The Commissioner of Industrial Relations is authorized to prescribe the duties of the Director of the Kentucky State Employment Service in accordance with the provisions of Section 12 of this Act. No Director of the Kentucky State Employment Service or Director, Division of Unemployment Compensation shall, during his term of office, engage in any other business, vocation or employment and no Director or associate director shall, during his term of office serve as an officer or committee member of any political party organization.

(b) *Salaries.*

Because of increased and added responsibilities devolving upon the Commissioner of Industrial Relations, by virtue of the enactment of this measure, the salary of the Commissioner

is hereby authorized to be increased from Four Thousand Dollars per annum, as previously provided, to a sum not exceeding Five Thousand Dollars per annum to be fixed by the Governor. The Director, Division of Unemployment Compensation, shall be paid from the Unemployment Compensation Administration Fund a fixed salary at a rate to be fixed by the Governor and the Social Security Board, not to exceed five thousand dollars per annum, plus necessary expenses, and shall devote his full time to the duties of his office. Each associate director representing labor or employers shall be paid from the Unemployment Compensation Administration Fund fees at the rate of twenty dollars each per day plus necessary expenses while engaged in the discharge of his official duties, not exceeding total fees of three thousand dollars for any year of service.

ADMINISTRATION

§ 11. (a) *Duties and Powers of the Commission.* It shall be the duty of the Unemployment Compensation Commission to administer this Act; and it shall have power and authority to adopt, amend or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon approval by the Commissioner of Industrial Relations and upon publication in the manner, not inconsistent with the provisions of this Act, which the Commissioner shall prescribe. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Act, and shall have an official seal which shall be judicially noticed. Not later than the first day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this Act during the preceding calendar year and shall make such recommendations for

amendments to this Act as the Commission deems proper. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and make recommendations with respect thereto.

(b) *Regulations and General and Special Rules.* General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after approval by the Commissioner of Industrial Relations and filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commission and shall become effective in the manner and at the time prescribed by the Commission.

(c) *Publication.* The Commission shall cause to be printed for distribution to the public the text of this Act, the Commission's general rules and its annual reports to the Governor, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) *Personnel.* Subject to other provisions of this Act, the Commission is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of duties. All positions shall be filled by persons selected and appointed on a non-partisan merit basis. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may by written orders, delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective

administration of this Act and may in its discretion bond any person handling monies or signing checks hereunder.

(e) *Advisory Councils.* The Commission shall appoint a State Advisory Council and local Advisory Councils, composed in each case of equal numbers of employer sepresentatives and employee representatives who may fairly be regarded a representative because of vocation, employment or affiliations, and of such members representing the general public as the Commission may designate. Such councils shall aid the Commission in formulating policies and discussing problems related to the adminstration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

(f) *Employment Stabilization.* The Unemployment Compensation Commission and the Director, Kentucky State Employment Service, with the advice and aid of the advisory councils, and through the proper division, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation by municipalities, counties, school districts and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible and to these ends to carry on and publish the results of investigation and research studies.

(g) *Records and Reports.* Each employing unit shall keep true and accurate employment records of all persons employed by it, and of the hours worked for it by each, and of the wages paid by it to each such person, and such other information as may be deemed necessary by the Commission

to the proper administration of this Act. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require any employing unit to furnish to it from time to time information concerning the total amount of wages paid, total number of persons employed, and an individual record of each new person employed and an individual record of each person whose employment has been terminated or who has been laid off, and of each person employed part time entitled to benefits, and other related matters which the Commission deems necessary to the effective administration of this Act. Information thus obtained shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity, but any claimant at a hearing before the Commission or its duly authorized representative shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee of the Department of Industrial Relations or other State Department who violates any provision of this Section shall be deemed guilty of a misdemeanor and upon conviction be fined not less than Twenty Dollars nor more than Two Hundred Dollars, or imprisoned for not longer than ninety days, or both.

(h) *State-Federal Cooperation.* In the administration of this Act, the Commission shall cooperate to the fullest extent consistent with the provisions of this Act, with the social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports in such form and containing such information as the Social Security Board, may, from time to time, require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply

with regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the administration of this Act.

Upon request therefor the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and the employment status of each recipient of benefits and such recipient's rights to further benefits under this Act.

(i) *Study of Partial Unemployment.* The Governor shall appoint a committee of three members who shall make a study of partial unemployment in this State and prior to November 1, 1937, shall make recommendations to the Commission with respect to the inclusion in this Act of provision for the payment of benefits for partial unemployment. Such committee shall consist of one member representative of employees, one member representative of employers, and one impartial person who shall be chairman. Not later than December 1, 1937, the Commission shall transmit the report and recommendations of the committee, together with its comments thereon and recommendations to the Governor.

EMPLOYMENT SERVICE

§ 12. (a) *Kentucky State Employment Service.* The Commissioner of Industrial Relations shall create a division to be known as the Kentucky State Employment Service which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purpose of performing such duties as are within the purview of the Act of Congress, entitled "An Act to provide for the establishment of a national employment service and for cooperation with the States in the promotion of such system, and for

other purposes", approved June 6, 1933 (48 Stat. 113, U. S. Code, Title 29, Section 49(c)), as amended. Any existing free-public employment offices maintained by the State but not heretofore under the jurisdiction of the Commissioner of Industrial Relations shall be immediately transferred to the jurisdiction of such division, and upon such transfer all duties and powers conferred upon any other department, agency, or officer of this State relating to the establishment, maintenance and operation of free public employment offices shall be vested in said division. The said division shall be administered by a full-time salaried director, who shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said Act of Congress, as amended, in the promotion and manitenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this State, in conformity with Section 4 of said Act, and this State will observe and comply with the requirements thereof. The Kentucky State Employment Service is hereby designated and constituted the agency of this State for the purpose of said Act. The Director of the employment service division shall be paid a fixed monthly salary at a rate to be fixed by the Governor and the Director of the United States Employment Service not to exceed Four Thousand Five Hundred dollars per annum. The Governor is directed to appoint the Director and the Director is authorized to appoint the other officers and employees of the Kentucky State Employment Service, subject to the prior approval in writing of the Commissioner of Industrial Relations. All such appointments shall be made in accordance with regulations prescribed by the Director of the United States Employment Service.

(b) *Financing.* All monies received by this State under said Act of Congress, as amended, shall be paid into the

special "employment service account" in the Unemployment Compensation Administration Fund, and said monies are hereby made available to the Kentucky State Employment Service to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, said division is authorized to enter into agreements with any political subdivision of this State or any of its municipalities or with any private, non-profit organization, and as a part of any such agreement the Director of the Kentucky State Employment Service may accept monies, services, or quarters as a contribution to the employment service account.

UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

§ 13. (a) *Special Fund.* There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All monies which are deposited or paid into this fund are hereby appropriated and made available to the unemployment compensation and employment service divisions. All monies in this fund shall be expended solely for the purpose of defraying the cost of the administration of this Act, and for no other purpose whatsoever. The fund shall consist of all monies appropriated by this State, and all monies received from the United States of America, or any agency thereof, including the Social Security Board and the United States Employment Service, or from any other source, for such purpose. All fines and penalties collected pursuant to the administration of this Act are hereby appropriated to and shall be paid into this fund. All monies in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balance in this fund shall not lapse at any time but shall be continuously available to the unemployment compensation and employment service divisions of the Department of Industrial Relations, for expenditures con-

sistent with this Act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in amount to be fixed by the Commission and approved by the Governor and in a form prescribed by law and approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the treasurer of the Unemployment Compensation Fund under Section 9 of this Act, shall be paid from the monies in the Unemployment Compensation Administration Fund.

(b) *Employment Service Account.* A special "employment service account" shall be maintained as a part of the Unemployment Compensation Administration Fund for the purpose of maintaining the public employment offices established pursuant to Section 12 of this Act and for the purpose of cooperating with the United States Employment Service. There is hereby appropriated to the employment service account of the Unemployment Compensation Administration Fund, from any money in the State Treasury not otherwise appropriated, for the fiscal year ending July 30, 1937, the sum of Sixteen Thousand Dollars and for the fiscal year ending June 30, 1938, the sum of Twenty Thousand Dollars. In addition, there shall be paid into such account the monies designated in Section 12(b) of this Act, and such monies as are apportioned for the purposes of this account from any monies received by this State under Title III of the Social Security Act, as amended.

COLLECTION OF CONTRIBUTIONS

§ 14. (a) *Penalties on Past Due Contributions.* Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall be subject to a penalty at the rate of one per centum per month from and after such date until payment plus accrued penalties is received by the

fund, provided that the commission may prescribe fair and reasonable general rules pursuant to which such penalties shall not accrue during the first calendar year that any employer is subject to this Act. Penalties collected pursuant to this subsection shall be paid into the fund's pooled account.

(b) *Collection.* If, after due notice, any employer default in any payment of contributions or penalties thereon, the amount due shall be collected by civil action in the name of the State, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or penalties thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this Act and cases arising under the Workmen's Compensation Law of this State.

(c) *Priorities under Legal Dissolutions or Distributions.* In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceeding, contribution then or thereafter due shall be paid in full prior to all other claims except taxes but on a parity with claims for wages of not more than two Hundred and Fifty Dollars to each claimant, earned within six months of the commencement of the proceeding, and prior awards of compensation under the Workmen's Compensation Act of this State. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898 as amended, contributions then or thereafter due shall be entitled to such priority as is provided in Section 64 (b) of that Act (U. S. Code, Title II, Section 104 (b) as amended).

PROTECTION OF RIGHTS AND BENEFITS

§ 15. (a) *Waiver of Rights Void.* No agreement by an individual to waive, release or commute his rights to benefits or any other rights under this Act shall be valid. No agreement by an employee or by employees to pay all or any portion of an employer's contributions, required under this Act from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver by an employee of any right hereunder. Any employer or officer or agent of an employer who violates any provision of this subsection shall be deemed guilty of a misdemeanor and upon conviction shall for each offense, be fined not less than One Hundred Dollars nor more than One Thousand Dollars, or be imprisoned for not more than six months or both.

(b) *Limitation of Fees.* No employee shall be charged fees of any kind in any proceeding under this Act by the Commission or its representatives. Any individual claiming benefits in any proceeding before the Commission, or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such service more than an amount approved by the Commission. Any person who violates any provision of this subsection shall be deemed guilty of a misdemeanor and, upon conviction shall for each such offense, be fined not less than Fifty Dollars nor more than Five Hundred Dollars or imprisoned for not more than six months, or both.

(c) *No Assignment of Benefits, Exemptions.* No assignment pledge or encumbrance of any right to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of

the recipients, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessaries furnished to such individual or his spouse or dependents during the time when such individual was employed. No waiver of any exemption provided for in this subsection shall be valid.

PENALTIES

§ 16. (a) Who ever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this Act, either for himself or for any other person, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject thereto or to avoid or reduce any contribution or other payment required from an employing unit under this Act, or who willfully fails or refuses to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) Any person who shall willfully violate any provision

of this Act or any rule or regulation thereuner, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a specific penalty is neither prescribed herein nor provided by any other applicable statute, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, and each day such violation continues shall be deemed to be a saparate offense.

(d) Any person who, by reason of the non-disclosure or misprepresentation by him or by another, of a material fact (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this Act while any conditions for the receipt of benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall be liable to repay to the Commission for the Unemployment Compensation Fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in Section 14 (b) of this Act for the collection of past due contributions.

REPRESENTATION IN COURT

§ 17. (a) In any civil action to enforce the provisions of this Act the Commission and the State may be represented by any qualified attorney who is designated by the Governor for this purpose or at the Commission's request, by the Attorney General. In case the Governor designates special counsel to defend, on behalf of the State, the validity of this Act, the expenses and compensation of such special counsel and of any experts employed by the Commission in connection with such proceeding, may be charged to the Unemployment Compensation Administration Fund.

(b) All criminal actions for violation of any provision of this Act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the Attorney General of the State;

or, at his request and under his direction, by the prosecuting attorney, of any county in which the employer has a place of business or the violator resides.

NON-LIABILITY OF STATE

§ 18. Benefits shall be deemed to be due and payable under this Act only to the extent provided in this Act and to the extent the monies are available therefor to the credit of the Unemployment Compensation Fund and neither the State nor the Division of Unemployment Compensation shall be liable for any amount in excess of such sums.

DEFINITIONS

§ 19. As used in this Act, unless the context clearly requires otherwise:

(a) "Annual Payroll" means the total amount of wages payable by an employer (regardless of the time of payment), for employment during a calendar year.

(b) "Benefits" means the money payments payable to an individual as provided in this Act, with respect to his unemployment.

(c) "Commission" shall mean the Unemployment Compensation Commission of the Division of Unemployment Compensation of the Department of Industrial Relations.

Be it provided, however, that wherever the term "Commission" is used to denote the authority required under this Act to perform administrative or ministerial functions, it shall be construed to mean the Director of Unemployment Compensation who sits *ex officio* as the Chairman of the Unemployment Compensation Commission instead of the Commission composed of three members.

The administrative or ministerial functions shall be construed to include the routine of operating and managing the activities incident to the handling of records, reports, files,

correspondence, the employment of personnel and the management of same, the conduct of negotiations with employers, employees, and co-operation with the Social Security Board authorized hereunder and all such functions of a similar nature but administration and/or ministerial functions shall not be construed to include the adjudication of any disputed claims or appeals or any similar matters of a quasi-judicial nature nor the adoption, amendment, rescission or promulgation of general, special rules, or regulations of general application, except, that as to regulations the Director may promulgate the same where the exigencies of the situation in his judgment require their immediate promulgation.

(d) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by this Act.

(e) "Employing Unit" means any individual of type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all purposes of this Act.

(f) "Employer" means:

(1) Any employing unit which in each of twenty different weeks within either the current or the preceding calendar year (whether or not such weeks are or were consecutive) has or had in employment, four or more individuals (*not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week*);

(2) Any employing unit which acquired its organization

trade or business, or substantially all the assets thereof from another which at the time of such acquisition was an employer subject to this Act;

(3) Any employing unit which acquired its organization trade or business, or substantially all the assets thereof from another employing unit and which, if treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which, having become an employer under paragraph (1), (2), or (3), has not under Section 8 ceased to be an employer subject to this Act; or

(5) For the effective period of its election pursuant to Section 8 (c) any other employing unit which has elected to become fully subject to this Act.

(g) "Employment" means service, including service in interstate commerce, performed for wages or under any contract of hire written or oral, express or implied; in which the relationship of the individual performing such service and the employing unit for whom such services are rendered is, as to those services, the legal relationship of employer and employee, which service: (1) is performed in this State by an individual; or (2) is performed elsewhere, but is incidental to such service in this State, provided contributions are not required and paid with respect to such services performed elsewhere under an Unemployment Compensation Law of any other State; or (3) is performed under a contract of hire made in this State for an enterprise located in this State, under which contract some service is performed in this State, provided that with respect to service performed without this State under such contract of hire, contributions are not required and paid under an Employment Compensation Law of any other State; but the term shall not include:

(1) Service performed in this State incidental to service performed elsewhere, with respect to which services per-

formed in this State, contributions are required and paid under an Unemployment Compensation Law of any other State;

(2) Service performed in the employ of this State, or of any political subdivision thereof or of any of its municipalities, or of any instrumentality of this State or its political subdivisions or its municipalities;

(3) Service performed in the employ of any other State or its political subdivision, or of the United States Government, or of an instrumentality of any other State or States or their political subdivisions or of the United States;

(4) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the Commission is hereby authorized and directed to enter into agreements which agreements shall become effective ten days after publication thereof in the manner provided in Section 11 (b) of this Act, for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act;

(5) Agricultural labor;

(6) Domestic Service in a private home;

(7) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(8) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(9) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or

educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(10) Service performed by those engaged as solicitors or agents for insurance companies.

(h) "Reserve Account" means a separate reserve account maintained by the Commission in the Unemployment Compensation Fund for each employer or group of employers in accordance with the provisions of this Act from which benefits are payable only with respect to the employment of individuals who are, or were, in the employ of such employer.

(i) "Employment Office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State-controlle dsystem of public employment offices.

(j) "Fund" means the Unemployment Compensation Fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(k) "State" includes in addition to the United States of America, Alaska, Hawaii and the District of Columbia.

(l) "Total Unemployment". An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to him.

(m) "Unemployment Compensation Administration means the Unemployment Compensation Administration established by this Act, from which administrative expenses under this Act shall be paid.

(n) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his em-

ploying unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable average amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commission. Amounts paid to traveling salesmen or other employees as allowance or reimbursement for traveling or other expenses incurred in the business of the employer constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee.

(o) "Week" means calendar week ending at midnight Saturday, or the equivalent thereof, as determined in accordance with general rules of the Commission, provided that prior to the approval of any general rules the Commission finds that such rule will be fair and reasonable with respect to all affected parties.

(p) "Weekly Benefit Amount". An individual's "weekly benefit amount" with respect to any particular week of total unemployment means the amount of benefits he would be entitled to receive for such week, if totally unemployed and eligible which amount is determined by his full-time weekly wage from the employer or employers against whose weeks of employment of such individual, such benefits are then chargeable as provided in this Act.

(q) "Week of Employment" by an employer, except as otherwise provided in this Act, means each week occurring after December 31, 1936, and after such employer has become subject under Section 19 (f) of this Act, within which the individual performs the plurality of his total hours of employment for employers, in employment for such employer, but does not include any week in which the plurality of such individual's total working hours is performed without this State, with respect to which plurality of total working hours, contributions are required and paid under an Unemployment Compensation Law of some other State, or compensation is

payable under an Unemployment Compensation Law of the United States.

(r) "Employee" means any person, including aliens and minors, employed for hire by an employer in an employment subject to this Act, except any person employed at other than manual labor at a rate of more than Twenty-six Hundred Dollars a year or more than Fifty Dollars a week.

§ 20. *Saving Clause.* The General Assembly reserves the right to amend or repeal all or any part of this Act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Act or by Acts done pursuant thereto shall exist subject to the power of the General Assembly to amend or repeal this Act at any time.

In the event that the Social Security Board does not, for any fiscal year, make the certification for payment to the State of Kentucky of funds for the assistance of this State in the administration of this Act, as provided by Title III of the Federal Social Security Act, or any amendments thereto, every employer subject to this Act shall, for such fiscal year, pay to the Unemployment Compensation Administration Fund, to be used for the administration of this Act, contributions equal to ten per centum of such employer's contributions for the same period for payment of benefits under this Act, such additional contributions being collected in the same manner as contributions for the payment of benefits.

SEPARABILITY OF PROVISIONS

§ 21. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

REPEALER

§ 22. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

CONCURRENT WITH FEDERAL ACT

§ 23. If the tax imposed by Title IX of the Federal Social Security Act or any amendment thereto, or any other Federal tax against which contributions under this Act may be credited shall for any cause become inoperative, the provisions of this Act, by virtue of that fact shall likewise become inoperative, and any unobligated funds in the State Unemployment Compensation Fund or returned by the United States Treasurer because such Federal Social Security Act is inoperative, shall be refunded to the contributors proportionately to their unexpended contributions under the regulations of the Commission.

DECLARATION OF AN EMERGENCY

§ 24. Whereas, it becomes necessary to enact an Unemployment Compensation Act in Kentucky before the expiration of the calendar year, 1936, in order to conserve to the citizens of the Commonwealth of Kentucky the benefits of the contributions exacted from Kentucky employers under the Social Security Act, passed by the United State Congress of 1935, an emergency is hereby declared to exist and this Act shall become a law and be effective upon its approval by the Governor.

Said amendment was then disagreed to.

Said Committee amendment is as follows, viz.:

Amend H. B. 1 on page 39, line 45 of the printed bill by striking out the word "four" and inserting in lieu thereof the word, "eight".

Mr. Munford moved the Previous question on said amendment.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Said amendment was then disagreed to.

Mr. Conway offered the following amendment to said bill viz.:

Amend H. B. 1, page 38 after the words "Industrial Relations" in line 10 by striking out all of lines 11 thru line 29 inclusive and inserting in lieu thereof the following:

Provided, however, that the Dircetor shall be the chief administrative officer of the Commission in charge of all administrative functions of the Commission, but subject to the general rules and regulations adopted by the whole Commission.

Mr. Gnau moved the Previous Question on said amendment and bill.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Said amendment was then agreed to.

The yeas and nays being required thereon by Messrs. Hunnicut and Conway, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Reuben J. Boling	Roscoe Claxon
B. F. Bedford	Dr. R. A. Byers	Roy Conway

Herbert Cook	J. H. Jones	Russell O'Neill
Sam Dever	O. C. Jones	Mel Petry
Howard G. Early	Leslie Larrimore	A. W. Pfeiffer
Garland Embry	Robert E. Lee	Wade H. Riley
Walter R. Fannin	T. B. McConnell	W. T. Rollo
T. P. Fitzpatrick	Lloyd MacDonald	A. W. Ross
G. W. Garrett	W. F. McGary	Carl Schneider
Ferd A. Gnau	Elmer McGlothen	Ray O. Shehan
Eugene Gough	John Marshall	P. L. Sidebottom
Jas. T. Hamilton	C. S. Matherly	Chester D. Silvers
C. L. Hammons	D. T. Matlack	Bruce Sloan
Thomas W. Hines	Duke Mayfield	Henry Stewart
Price Holbrook	John B. Mollett	R. Van Bever, Jr.
John M. Hunnicut	W. E. Mull	S. J. Wagner
Ben W. Johnson	Tyler Munford	Henry Ward

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Those who voted in the negative were—

F. T. Allen	J. F. Ladd	Joe E. Robinson
Douglas Bolling	M. T. McCarthy	John C. Robinson
Wallace Brown	J. L. McDermott	Carl Scheben
V. O. Chandler	W. H. Miller	Dr. B. F. Shields
Stanley S. Dickson	J. C. Nickell	W. R. Tapp
Chas. P. Farnsley	J. C. Ramey	J. J. Thomas
W. L. Hampton, Jr.	Harry C. Records	Joseph L. Wall
Ira W. Hulette	L. K. Rice	W. G. Williams

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Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Henry H. Allen	W. T. Baker

B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
V. O. Chandler
Floyd Clark
Roscoe Claxon
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
W. H. Miller
John B. Mollett
W. E. Mull
Tyler Munford
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Carl Schneider
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
Henry Stewart
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
S. J. Wagner
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.
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Resolved that the title thereof be as aforesaid.

Mr. Conway moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Speaker announced that he had referred bills which were introduced on Thursday, as follows, viz.:

H. B. 6. To Committee on Charitable and Penal Institutions

H. B. 7. To Committee on State Property.

H. B. 8. To Committee on Revenue and Taxation No. 1.

H. B. 9. To Committee on Cities of Third Class.

H. B. 10. To Committee on Kentucky Statutes No. 1.

The Speaker announced the personnel of the aforesaid Committees to be the same as for the regular session, 1936, viz.:

CHARITABLE AND PENAL INSTITUTIONS

Joe E. Robinson, Chairman
A. W. Ross
James Garnett, Jr.
Ollie J. Bowen
S. F. Wagner
Carl Schneider
Eugene Gough
D. T. Matlack
Dr. Harry Swope

STATE PROPERTY

J. C. Ramey, Chairman
William E. Mull
Ira W. Hulette
John B. Mollett
Carl Scheben
Roger Wells
Robert E. Lee
Hobert Rayburn
J. A. Coleman

REVENUE AND TAXATION No. 1

Wallace Brown, Chairman
Joe E. Robinson
S. J. Wagner
Douglas Bolling
T. B. McConnell
Carl Schneider
Rodes K. Myers
Bruce Sloan
Dr. B. F. Shields

CITIES OF THE THIRD CLASS

Eugene Gough, Chairman	Ira W. Hulette
Rodes K. Myers	H. C. Steely
George Clay	Robert Van Bever
Douglas Bolling	

Dr. Shields moved that the Rules of this House be suspended for the purpose of introduction of bills.

Said motion was agreed to.

Thereupon the following bills were introduced, viz.:

By Dr. Swope:

H. B. 11. An Act to authorize cities of the second class to establish and maintain junior colleges by leaving a tax for school purposes and by charging tuition fees, etc.

Said bill is as follows, viz.:

An Act to authorize cities of the Second Class to establish and maintain Junior Colleges by levying a tax for school purposes and by charging tuition fees in support thereof under the management and control of the Board of Education of such cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Boards of Education of cities of the second class are hereby authorized to establish or to acquire by purchase, gift, or lease, or by lawful conveyance, municipal Junior Colleges for the purpose of promoting public education as defined in this act; and for the support and maintenance thereof the Board of Education of such city may request and the general council or other legislative body of such city shall then annually cause to be levied and collected a tax of not less than

five (5) nor more than seven (7) cents on each One Hundred Dollars ($100) worth of property subject to the taxation for city purposes.

§ 2. A municipal junior college within the meaning of this act is a college established or supported in whole or in part by funds raised by municipal taxation and controlled and administered by the Board of Education of such city as a part of the public school system and affording instruction in arts, sciences, and professions and conferring such certificates of attainments as may be authorized by other like or similar institutions of learning above high school grade or standing.

§ 3. Such levy of taxes shall be made at the same time and in the same manner as other levies for public school purposes, and the amount so levied shall be placed to the credit of the Board of Education fund upon completion of the assessment of property for taxation, and paid as collected, subject to such discounts or penalties as is allowed on other city taxes, by the Treasurer of the city to the Treasurer of the Board of Education for the purpose of establishing, acquiring, maintaining, and operating said municipal junior college. The taxes authorized by this act to be levied shall be construed to be school taxes and to be levied for school purposes and shall be in addition to all other municipal taxes authorized and allowed by law to be used for municipal purposes and shall be in addition to all other taxes authorized and allowed by law to be levied for school purposes.

§ 4. The Board of Education of any second-class city that may establish or acquire a municipal junior college under the terms of this act may, for the purpose of supplementing the tax provided in this act, charge each pupil attending the municipal junior college a tuition fee not to exceed One Hundred Dollars ($100) per annum. The tuition fee shall be collected by the Treasurer of the Board of Education and shall be placed to the credit of the Board of Edu-

cation College Fund, and shall be used for maintaining and operating the municipal junior college.

§ 5. A municipal junior college shall be entitled to support under this act only when its principal work is the maintenance of courses of instruction in advance of the instruction maintained in high schools under the control of the Board of Education.

§ 6. The Board of Education of any second class city may be set apart or appropriate any site, or school building, or part of a school building, and grounds, not especially needed for general school purposes, for the use of said municipal junior colleges.

§ 7. An annual report and an audit of receipts and disbursements of the Junior College Fund shall be made by the Board of Education of the city.

By Mr. Brown:

H. B. 12. An Act to provide for the stabilization of the milk industry in the State of Kentucky; creating a State Milk Control Board, defining the powers and duties of said State Milk Control Board, and setting up a system of regulations under which the production and distribution of milk will be properly regulated in order that the consumer may be assured at all times of an adequate supply of clean, healthy milk.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Purpose.* The purpose of this Act is to provide a uniform system for the production, sale and distribution of milk and dairy products. Experience has taught that it is necessary to regulate the production and distribution of milk and dairy products, in order that a fair price may be obtained by the producer.

§ 2. *Definitions.* Wherever used in this Act, the following terms shall be construed as set out.

(a) The term "person" means any person, firm, corporation or association.

(b) "Producer" shall mean any person (1) who produces milk in conformity with health regulations for fluid milk in any sales area and (2) who sells the milk so produced in said sales area.

(c) "Distributors" as used in this Act, shall mean any person, firm or corporation holding a distributor's permit from the local Health Board if such permit is required and who distributes dairy products at wholesale or retail (1) to hotels, restaurants, stores, or other establishments for consumption on the premises, (2) to stores or other establishments for resale or (3) to consumers.

(d) "Local Board" as used in this Act shall mean a Board regularly constituted as provided in this Act, and qualified to act.

(e) "Local District" as used in this Act shall mean any district composing not less than two (2) adjacent counties in the State of Kentucky and in at least one of which there is a first- or second-class city.

(f) "Milk and Dairy Products" as used in this Act shall mean all milk, cream, buttermilk, cottage cheese, flavored milk, raw of pasteurized milk meeting the requirements of the State and Local Board of Health and sold by a milk distributor for human consumption as such.

(g) Sales of milk and dairy products in Interstate Commerce when made in good faith for shipment out of the State of Kentucky shall be excluded from the provisions of this Act.

(h) The term "State Milk Control Board" means the State Agency created by this law to be known as the State Milk Control Board.

§ 3. There is hereby created a State Milk Control

Board, which shall be under the direction and supervision of the Department of Business Regulations, to consist of five members to be appointed by the Governor, of which two shall represent producers, and shall be appointed from at least five nominees selected by cooperative milk associations doing business in Kentucky; and two shall represent distributors and be appointed from at least five nominees selected by associations of distributors doing business in Kentucky at the time this Act takes effect, and one appointed from a list of three nominated by the Dean of the College of Agriculture, University of Kentucky, from the public at large and not a distributor or a producer. Each member of the State Milk Control Board shall serve until their successors are appointed. A vacancy in any membership of the State Milk Control Board shall be filled by appointment for the unexpired term by the Governor in the same manner as the last incumbent of the position was appointed. The Governor may remove any member for misfeasance, malfeasance, or non-feasance in office. The members of the State Milk Control Board shall serve without compensation. The term of office of each member of the State Milk Control Board shall be four (4) years from the time of his appointment.

The State Milk Control Board shall function only in any local district in which a local Board has been duly constituted according to the provisions of this Act.

§ 4. Anything in the common or statute law of this State to the contrary notwithstanding, it shall be lawful: For any two or more distributors purchasing milk in the same market from producers to associate and to meet, confer and agree with one or more cooperative agricultural associations organized under the law of this state, or cooperative law of other states, or with any group of producers whether members of such association or not, selling in the same market upon prices to be paid by distributors to producers for milk; to recommend uniform classifications by which distributors

shall pay for milk according to the use and provide for the equalization of the price of such milk so that all producers shall receive the same price per one hundred pounds of milk sold of equal butterfat tests and basic rating.

§ 5. *Powers of the State Milk Control Board.* The State Milk Control Board shall have the following powers, to wit:

(a) To make a careful study of the conditions of the production, distribution and consumption of milk and dairy products.

(b) (1) To establish uniform prices and classifications by which distributors shall pay for milk according to the use and provide for the equalization of the price of such milk so that all producers shall receive the same price per one hundred pounds for milk sold of equal butterfat tests and basic rating.

(b) (2) In case the State Milk Control Board shall find either on complaint or its own motion that an emergency exists in the local sales area, then the State Milk Control Board may fix and determine for such local sales area a fair and equitable price, both wholesale and retail, at which dairy products shall be sold by one distributor to another or to the consuming public.

Manufactured products as ice cream, butter, condensed, hard cheese, powerdered milk or buttermilk (not for fluid consumption), or milk or dairy products used in their manufacture shall not come under the price fixing power of the State Milk Control Board.

(b) (3) To recognize bases of producers who are members of cooperative marketing associations and to establish equitable bases for producers who are not members of cooperative marketing associations.

(b) (4) To provide a uniform check-off to be deducted from the amount owing by the distributors to the producers,

but to be paid by the distributors from the sum owing to the producers; such check-off shall be paid by the distributors to such cooperative marketing associations organized under the laws of the State of Kentucky and adjoining states, who apply therefor to the State Milk Control Board, and the check-off received by the State Milk Control Board from non-members shall be expended by the State Milk Control Board either through its own Local Board or the agency of cooperative associations for the purpose of auditing, promotion, check testing, advertising and educational work, and for such other ways as may be helpful to the producers.

(b) (5) To require the distributors to furnish satisfactory evidence of their responsibility to pay for milk bought, or to give a bond guaranteeing the payment for such milk and to keep records of operations and to report same to the State Milk Control Board, which records shall be subject to audit by the State Milk Control Board or its agents.

The State Milk Control Board shall have the power to suspend the license of any distributor for non-compliance with subsection B of Section 5.

Before the State Milk Control Board may suspend the license of any distributor, it shall give to such distributor ten days' written notice, together with a written statement setting out the grounds for such suspension, and if the distributor does not answer such grounds in writing within ten days, the license shall be suspended by the State Milk Control Board, but if such answer be so filed with the State Milk Control Board, it shall hold a hearing on the grounds and answer, and make such ruling thereon as the facts justify; and any distributor whose license is suspended shall have the right to appeal to the Circuit Court of the County in which the Local Board is located, and the State Milk Control Board shall certify to such Court the entire record heard by it, providing the cost of making such record be paid by the appealing distributor. The Circuit Court shall decide the case upon the record

submitted, provided that the findings of fact of the State Milk Control Board shall have the same weight as the verdict of a well-instructed jury, and from the judgment of the Circuit Court either party may appeal to the Court of Appeals as in other cases.

A distributor whose license has been suspended may apply for restoration thereof, and it shall be the duty of the State Milk Control Board to grant or refuse such application as the facts may justify.

(b) (6) To adopt and enforce all rules, regulations or orders necessary to carry out the provisions of this Act, including rules and regulations governing the following:

(a) The establishment of reasonable trade practices affecting the classification of milk sold by producers.

(b) The establishment of reasonable trade practices between producers or distributors, or producers and distributors in any marketing area.

(c) The marketing of milk at wholesale or retail in any local district.

(d) Use of bases and schedules of prices to be paid producers of milk in each of the local districts.

(b) (7) To authorze the local Board to assist the State Milk Control Board in the performance of its duties under this act.

§ 6. The local district shall embrace such counties or parts of counties as may be determined and certified by the State Milk Control Board upon recommendation of the Local Board to comprise such local district, but in no event shall it consist of less than two (2) counties. The sales area in any local district shall be such area as may be determined and certified by the State Milk Control Board.

§ 7. At any time after this Act becomes effective, the State Milk Control Board may set up for any local district as herein defined a Local Board, provided sixty-five (65) per

cent of the producers in said district certify to the State Milk Control Board their desire to have such Local Board constituted. Such Local Board shall consist of seven (7) members, three (3) of whom to be nominated by the producers, three (3) to be nominated by the local distributors' organization and one (1) appointed by the Dean of College of Agriculture, University of Kentucky, from the public at large and not a distributor or producer, who shall serve for two years, and all of whom shall reside in the local district. Cooperative Associations may represent and act for their members at any time sixty-five (65) per cent of the producers certify to the State Milk Control Board their desire to have the local Board dissolved, the local Board shall become ineffective at once. The appointive members of the Local Boards, shall be nominated at a meeting called by the State Milk Control Board within thirty days after request is made, notice of which shall be sent to all producers as defined herein within the local district and to all distributors doing business within the sales area of said local district but each meeting shall be held separately, and twenty (20) days' notice of the time and place of holding said meeting shall be given in the notice. At such meeting a chairman and secretary shall be elected and the certification of the chairman and secretary of the names of those nominated to the Local Board shall be made to the State Milk Control Board.

The producer and distributor members of the first Local Board shall hold their offices for a term of one (1) year or until their successors are nominated and qualified, and each year thereafter the State Milk Control Board shall give the same notice of nomination of members of the Local Board as above provided. The nomination of members of the Local Board shall be held in the same month each year and as nearly as possible on the same day. Vacancies in the Local Board of producer members shall be filled by the State Board until the next annual nomination. Each local board shall

make a careful study of the conditions, production, distribution and consumption of milk and dairy products within its respective local district, and submit to the State Milk Control Board recommendations with respect to rules and regulations to be adopted by such State Board for the effectuation of the purposes of this Act in such local district.

§ 8. All distributors in the sales area shall procure and maintain a license from the State Milk Control Board and no distributor shall operate without such license, the cost of which shall be $1.00 (One Dollar).

§ 9. *Penalties.* Any person, firm or corporation violating the provisions of this Act or failing to conform to the regulations of the State Milk Control Board shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Ten ($10.00) Dollars, and not more than One Hundred ($100.00) Dollars for each offense.

§ 10. *Separability.* If any part of this Act be held to violate any provision of the Constitution of the United States or the Constitution of the Commonwealth of Kentucky, then such part shall be eliminated therefrom and the remainder of this Act shall be in force, it being declared to be the legislative intention to enact a comprehensive Act without the inclusion of such part as may be declared unconstitutional.

§ 11. Nothing in this Act is intended or shall be construed to limit any of the rights, powers or privileges granted to Cooperative Marketing Associations by Section 883f-1 to Section 883f-41 inclusive of the Kentucky Statutes or to repeal any portion of said section.

§ 12. In order to secure a uniform system of milk control, the State Milk Control Board is hereby vested with power and it shall be its duty to confer and cooperate with the legally constituted authorities of other states and of the United States, including the Secretary of Agriculture of the United States, and for the foregoing purposes the State Milk Control Board shall have power to conduct joint hearings,

issue joint or concurrent orders and exercise all its powers under this Act.

Ordered that said bills be printed, and referred.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing the Standing Committees to report.

Said motion was agreed to.

Thereupon Mr. Brown of the Committee on Revenue and Taxation No. 1, to which the same had been committed, reported a bill entitled:

H. B. 8. An Act to repeal, amend and re-enact Section 10 and section 12, chapter 4 of the Acts of the Third Extraordinary Session of the 1936 General Assembly, being entitled "An Act concerning revenue and taxation, and declaring an emergency," etc.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Hammonds moved that when the House adjourn today, it adjourn to meet again on Monday, December 28 at two o'clock P. M.

Said motion was agreed to.

Dr. Shields moved that the House do now reconsider the vote by which they agreed that when the House adjourn today, they adjourn to meet again on Monday, December 28, at two o'clock P. M.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Shields and Hammonds, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Ira W. Hulette	Mel Petry
Henry H. Allen	John M. Hunnicut	J. C. Ramey
B. F. Bedford	O. C. Jones	Joe E. Robinson
Douglas Bolling	J. F. Ladd	John C. Robinson
Wallace Brown	Leslie Larrimore	W. T. Rollo
Roscoe Claxon	Robert E. Lee	A. W. Ross
George S. Clay	T. B. McConnell	Carl Scheben
Roy Conway	J. L. McDermott	Dr. B. F. Shields
Herbert Cook	Elmer McGlothen	P. L. Sidebottom
Sam Dever	John Marshall	Bruce Sloan
Stanley S. Dickson	C. S. Matherly	W. R. Tapp
Howard G. Early	D. T. Matlack	J. J. Thomas
Chas. P. Farnsley	W. E. Mull	S. J. Wagner
Ferd A. Gnau	Tyler Munford	Henry Ward
Eugene Gough	Rodes K. Myers	W. G. Williams
W. L. Hampton, Jr.	J. C. Nickell	Charles Wylie
Clyde S. Howard	Russell O'Neill	

—50

There voted in the negative—

V. O. Chandler	Thomas W. Hines	M. T. McCarthy
T. P. Fitzpatrick	Ben W. Johnson	John B. Mollett
C. L. Hammons	J. H. Jones	Ray O. Shehan

—9

Mr. Myers moved that the House do now adjourn, to meet again on Monday, December 28 at one o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

MONDAY, DECEMBER 28, 1936.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Thomas W. Hines	L. K. Rice
C. W. Anderson, Jr.	Clyde S. Howard	Wade H. Riley
H. T. Baker	Ira W. Hulette	Joe E. Robinson
W. T. Baker	John M. Hunnicut	John C. Robinson
G. M. Ballard	Ben W. Johnson	W. T. Rollo
Reuben J. Boling	O. C. Jones	A. W. Ross
Douglas Bolling	R. T. Kirkman	Carl Scheben
Ollie J. Bowen	J. F. Ladd	Carl Schneider
Wallace Brown	Leslie Larrimore	Ray O. Shehan
Dr. R. A. Byers	M. T. McCarthy	Dr. B. F. Shields
Jas. C. Carter	T. B. McConnell	P. L. Sidebottom
Roscoe Claxon	W. F. McGary	Chester D. Silvers
Roy Conway	Elmer McGlothen	Bruce Sloan
Herbert Cook	John Marshall	H. C. Steely
Sam Dever	C. S. Matherly	Dr. H. S. Swope
Howard G. Early	D. T. Matlack	W. R. Tapp
Garland Embry	Duke Mayfield	J. J. Thomas
Walter R. Fannin	W. H. Miller	R. Van Bever, Jr.
H. Myer Garner	John B. Mollett	S. J. Wagner
G. W. Garrett	W. E. Mull	Joseph L. Wall
James Garnett, Jr.	Rodes K. Myers	Henry Ward
Ferd A. Gnau	J. C. Nickell	L. R. Wells
Eugene Gough	Russell O'Neill	W. G. Williams
James T. Hamilton	Mel Petry	Charles Wylie
C. L. Hammons	A. W. Pfeiffer	John Kirtley, Spkr.
W. L. Hampton, Jr.	J. C. Ramey	

Mr. Schneider moved that the reading of the Journal of Saturday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Scheben offered the following resolution, viz.:

H. Res. 3. Whereas, It is apparent that there should be closer relationship between the several states and the Federal government in dealing with the prevention and prosecution of crime, and

Whereas, The National Crime Commission has prepared several measures to assist the Federal Government and the several States with their criminal problems, therefore

Be it resolved, That the Legislative Council study the legislation proposed by the National Crime Commission and make appropriate recommendations to the regular session of the General Assembly of Kentucky, 1938, and

That this resolution be spread upon the Journal and that a copy of this resolution be referred to the Legislative Council.

Said resolution was adopted.

Upon the call of the Counties and Legislative Districts. the following bills were introduced, viz.:

By Mr. Wylie:

H. B. 13. An Act to protect trade mark owners, distributors and the public against injurious and uneconomic practices in the sale and distribution of articles of standard quality under a trade mark, brand or name and defining unfair competition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. No contract relating to the sale or resale of a commodity which bears, or the label or content of which

bears, the trade-mark, brand or name of the producer or owner of such commodity and which is in fair and open competition with commodities of the same general class produced by others shall be deemed in violation of any law of the Commonwealth of Kentucky by reason of any of the following provisions which may be contained in such contract:

(1) That the buyer will not resell any such commodity except at the price stipulated by the vendor.

(2) That the producer or vendee of a commodity require upon the sale of such commodity to another, that such purchaser agree that he will not, in turn, resell except at the price stipulated by such producer or vendee.

Such provisions in any contract shall be deemed to contain or imply conditions that such commodity may be resold without reference to such agreement in the following cases:

(1) In closing out the owner's stock for the purpose of discontinuing delivery of any such commodity; provided, however, that such stock is first offered to the manufacturer of such stock at the original invoice stock price, at least ten (10) days before such stock shall be offered by sale to the public.

(2) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof.

(3) By any officer acting under the orders of any court.

§ 2. Willfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of Section 1 of this Act, whether the person so advertising, offering for sale or selling is or is not a party to such agreement, is unfair competition and is actionable at the suit of any person damaged thereby.

§ 3. This Act shall not apply to any contract or agreement between producers or between wholesalers or between retailers as to sale or resale prices.

§ 4. If any section, sentence or clause of this Act shall

for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining parts hereof.

§ 5. This Act may be known and cited as the "Fair Trade Act."

Ordered that said bill be printed and referred.

The Speaker announced that he had referred bills which were introduced on Saturday, as follows, viz.:

H. B. 11. To Committee on Cities of 2nd Class.

H. B. 12. To Committee on Agriculture No. 1.

The Speaker announced the personnel of the aforesaid Committees to be the same as in the regular session, 1936, viz.:

CITIES OF SECOND CLASS

Henry Ward, Chairman	Chester Silvers
Carl Scheben	Dr. Harry Swope
H. G. Early	John McDermott
Thos. P. Fitzpatrick	S. J. Wagner

AGRICULTURE No. 1.

John C. Robinson, Chairman	Sam Dever
Eugene Gough	P. L. Sidebottom
B. F. Bedford	John Marshall
W. L. Hampton	Wade Wiley
Roscoe Claxon	

Dr. Shields moved that the House do now recess for thirty minutes.

Said motion was agreed to.

And then the House recessed.

After a time the Speaker resumed the Chair and called the House to order.

The Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Dr. Shields of the Committee on Kentucky Statutes No. 1.

H. B. 10. An Act relating to revenue and taxation and repealing Sections 4064, 4241, 4257a, 4260d-3, etc. Carroll's 1930 Kentucky Statutes and 1936 Editions, and repealing, amending and re-enacting Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260d-1, 4261, 6262, 6243, 4019a-13 and 4267 of said Statutes; and repealing all laws in conflict with this Act to the extent of such conflict, and declaring an emergency.

By Mr. Gough of the Committee on Cities of the Third Class:

H. B. 9. An Act to repeal and re-enact Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741x-1, 2741x-2 and 2741x-10, Kentucky Statutes, Carroll's Edition 1936, pertaining to municipal housing and extending the privileges of said statutes, etc.

With the expression of opinion that said bills ought to pass.

Said bills were each read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Calendar, a bill entitled:

H. B. 8. An Act to repeal, amend and re-enact Section 10 and Section 12 chapter 4 of the Acts of the Third Extraordinary Session of the 1936 General Assembly, being entitled "An Act concerning revenue and taxation, and declaring an emergency" said sections now being codified as Sections 4281e-10 and 4281e-12 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, and declaring an emergency.

Ordered that said bill be read the second time.

The Constitutional provision as to the second reading of said bill at length being dispensed with, said bill was read the second time by its title only.

Ordered that said bill be placed in the Orders of the Day.

Mr. Gnau moved that when the House adjourn today, it adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

Mr. Myers moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, DECEMBER 29, 1936.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen Henry H. Allen C W. Anderson, Jr.

H. T. Baker
W. T. Baker
B. F. Bedford
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Chas. P. Farnsley
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
Lloyd MacDonald
W. F. McGary
John Marshall
C. S. Matherly
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Harry C. Records
Wade H. Riley
John C. Robinson
W. T. Rollo
Carl Scheben
Carl Schneider
Ray O. Shehan
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
Dr. H. S. Swope
W. R. Tapp
J. J. Thomas
R. Van Bever, Jr.
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Mr. Silvers moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Sidebottom moved that the privilege of the floor be extended to Captain Leland H. Barnes and Colonel Patrick H. Barnes.

Said motion was agreed to.

Mr. Hines offered the following resolution, viz.:

H. Res. 4. Whereas, There is a lock and dam across Green river near Rochester and just below the mouth of Mud river and being about twenty (20) feet in height, which impounds water above the dam in both Green river and Mud river, which dam was constructed and is being maintained and operated by the Federal Government and through its War Department, and

Whereas, Mud river is about one hundred and twenty-five (125) miles in length and flows through practically a level country and on either side of said river for many miles there are fertile bottom lands that are easily overflowd by reason of the impounded water by said dam, and

Whereas, When the dam was constructed across Green river many years ago it made Mud river for several miles suitable for navigation, but in later years the river has become unfit for navigation by reason of sediment and other obstructions lodged in said Mud river and on its banks until now it is wholly unsuitable for navigation, and

Whereas, the obstructions that have lodged in said river and on its banks and by reason of the impounding of twenty (20) feet of water caused by the building of said dam, many thousands of acres of fertile land have become overflowed and are practically worthless, and

Whereas, there is now a bridge across Mud river near its intersection with Green river and it is necessary for the bridge to be repaired or a new one built as the county road crosses said river at said intersection and it being deemed advisable by the Highway Department that a new bridge be built at this place, and

Whereas, it has been deemed advisable by engineers to build a dam at said point across Mud river and to cut a channel from Mud river at a point above said dam to a point below the dam across Green river thereby removing the im-

pounding of twenty (20) feet of water which would drain thousands of acres of fertile land, and

Whereas, it has been deemed advisable when said dam is constructed across said Mud River that said dam be used as a bridge across said river for the use of said Highway. Now

Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring:

That it is the sense of the Legislature of the Commonwealth of Kentucky that the War Department of Washington, D. C., in connection with the W. P. A. activities, proceed at once to build a dam across Mud river near its mouth in such manner as to provide a bridge across said river on top of said dam and to dredge a channel above said dam in Mud river to a point below the dam across Green river, thereby providing drainage for the impounded waters of Mud river and thereby reclaiming many thousand acres of fertile bottom lands of Mud river.

§ 2. *Be it further resolved*:

That the Commonwealth of Kentucky grant its permission to the Federal authorities to so construct said bridge and dredge out a new channel for Mud river, and the State Highway Department grants its permission for the construction of said dam and bridge across said river.

Be it further resolved:

That if the War Department is unable to immediately provide for said construction, that then it is the sense of this Legislature that a W. P. A. grant should be made and a Fedtral Project set-up under its activities for the construction of this work.

A copy of this resolution shall be sent immediately to the War Department, Washington, D. C., and another copy sent to the W. P. A. officials.

Said resolution was adopted.

The Speaker announced that he had referred a bill which was introduced yesterday, as follows:

H. B. 13. To Committee on Court of Appeals.

The Speaker announced that the personnel of the aforesaid Committee to be the same as in the regular Session, 1936, viz.:

COURT OF APPEALS

W. R. Tapp, *Chairman*

Elmer McGlothen	Joseph Wall
Hobart Rayburn	Dr. B. F. Shields
A. W. Pfeiffer	A. W. Ross
W. T. Rollo	J. J. Thomas

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 9. An Act to repeal and re-enact Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741x-1, 2741x-2 and 2741x-10, Kentucky Statutes, Carroll's Edition 1936 pertaining to municipal housing, etc.

H. B. 10. An Act relating to revenue and taxation and repealing Sections 4064, 4241, 4257a, 4260-2, 4260-3, 4260-4, 4260-a, 4260d-3, and 4265, Kentucky Statutes, Carroll's 1930 and 1936 Editions, and repealing, amending and re-enacting Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260d-1, 4261, 4262, 4263, 4019a-13 and 4267 of said statutes; and repealing all laws in conflict with this Act to the Extent of such conflict, and declaring an emergency.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. Myers moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Gnau moved that when the House adjourn to-day, it adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in this House entitled:

H. B. 1. An Act to provide for the payment of unemployment compensation to designated classes of persons and for the administration thereof; the declaration of a State public policy; an enumeration of benefits; etc.

With an amendment thereto by way of Substitute herefor, as proposed and adopted by the Senate.

(For bill see House Journal of December 26.)

Said Substitute, as proposed and adopted by the Senate, is as follows, viz.:

An Act to provide for the payment of unemployment compensation to designated classes of persons and for the administration thereof; the declaration of a state public policy; an enumeration of benefits; prescribing benefits, elegibility conditions, and disqualifications for benefits; defining claims for benefits; and setting up methods of procedure for claiming and determining benefit, providing for hearings and review of disputed claims; exacting certain contributions from employers and employees and providing for a method of fixing future rates; providing for the determination of the period, election and termination of employers' coverage; providing for the establishment of an unemployment compensation fund and its administration and for the creation therein of certain accounts and for its discontinuance in the event of certain contingencies, and for the procedure relative thereto; setting up the administrative organization and prescribing salaries; providing for the administration; establishing an employment service and prescribing salaries and accepting the Wagner-Peyser Act, as amended, establishing an unemployment compensation administration fund, and special accounts therein and making appropriations therefor; providing for the collections of contributions; providing for the protection of the rights and benefits; providing certain penalties; providing for representation in court, declaration of non-liability of the state; defining certain terms; exempting certain employment; appropriating all monies collected and received under this act, providing for reciprocal benefit agreements

with other states or with the United States; providing for saving clause; providing for separability clause; repealing conflicting laws; providing for concurrence with the Federal Act and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SHORT TITLE

§ 1. This Act shall be known and may be cited as the "Unemployment Compensation Law".

DECLARATION OF STATE PUBLIC POLICY

§ 2. As a guide to the interpretation and application of this Act, the public policy of this State is declared to be as follows:

Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this State. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the General Assembly to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The General Assembly, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of, this State require the enactment of this measure under the police powers of the State, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

BENEFITS

§ 3. (a) *Payment of Benefits.* Twenty four months after the date when contributions (as defined in Section 19) (d) first accrue under this Act from any employer (as defined in Section 19(f), benefits shall become payable to any individual who thereafter is or becomes unemployed and eligible for benefits. All benefits shall be paid through the employment offices, or such other agency as the Social Security Board may approve at such times and in such manner as the Commission may prescribe.

(b) *Weekly Benefit Amount for Total Unemployment.*

Each eligible individual who is totally unemployed (as defined in Section 19(1) in any week shall be paid, with respect to such week, benefits (computed to the next highest multiple of twenty cents) at the rate of fifty per centum of his full-time weekly wages (as defined in subsection (f) of this section) from the employer against whose weeks of employment (as defined in Section 19(q) of such individual such benefits are chargeable under this Act, but not more than fifteen dollars per week, nor less than either five dollars or three-fourths of his full time, whichever is the lesser.

(c) *Charging of Benefits Against Past Weeks of Employment.* Each individual's benefits shall be limited in accordance with the ratio provisions of subsection (e) of this section. In no event shall any one calendar week be chargeable as more than one week of employment. If during any one calendar week an individual has rendered services for more than one employer, his benefits shall be chargeable only against the week of employment for the employer by whom the plurality of his wages for such week was payable. An individual's benefit shall be charged against those of his weeks of employment, against which benefits have not previously been charged hereunder in the inverse chronological order in which such weeks occurred, provided that:

(1) If the amount chargeable against a particular week

of employment under the provisions of subsection (e) (1) of this section equals less than one-eighth of his weekly benefit amount, or, under the provisions of subsection (e) (2) of this section, equals less than one-fortieth of his weekly benefit amount, no week of employment shall be chargeable therewith; and such amounts shall be charged to the fund's pooled account; and

(2) If the amount chargeable against a particular week of employment under the provision of subsection (e) (1) of this section equals one-eighth of his weekly benefit amount, or more, or, under the provisions of subsection (e) (2) of this section, equals one-fortieth of his weekly benefit amount or more, such week of employment shall be charged in full.

(d) *Weekly Benefit Amount for Total Unemployment Chargeable against more than One Employer's Account.* If, in accordance with the provisions of subsection (c) and (e) of this section, any benefit for a particular week of total unemployment is chargeable against weeks of employment by more than one employer, such benefit shall be equal to the total of the amounts chargeable against each chargeable week of employment by each such employer.

(e) *Ratio Provisions and Duration of Benefits.* Benefits shall be paid each unemployed and eligible individual, with respect to his total unemployment occuring within any period of fifty-two consecutive weeks;

(1) In the ratio of one-fourth of his applicable weekly benefit amount to each uncharged week of employment occuring within the one hundred and four consecutive weeks preceding the close of his most recent week of employment, except that his aggregate benefits thus payable shall not exceed fifteen times his highest applicable weekly benefit amount during such fifty-two week period.

(f) *Determination of Full-Time Weekly Wage.* The "full-time weekly wage" of any individual means the product obtained by multiplying his "hourly rate of earnings" by his

"full-time weekly hours", both of which shall be determined and redetermined at reasonable intervals in accordance with rules prescribed by the Executive Director, Division of Unemployment Compensation, with the advice of the associate directors. In computing the benefits payable to any individual with respect to a particular week of his total unemployment, his "full-time weekly wage", "hourly rate of earning" and "full-time weekly hours" shall be determined with respect to each employer against whose weeks of employment of such individual, his benefits are then chargeable under this Act.

(1) An individual's "full-time weekly hours" shall be determined as follows: There shall be added together the hours worked by the individual in all those weeks of employment for a particular employer, occurring within the fifty-two weeks preceding the close of his most recent week of employment for that employer, in which he worked twenty-eight hours or more. Such total hours shall be divided by the number of such weeks, and the resulting weekly average shall constitute the employee's fulltime weekly hours, until a subsequent determination is made. If the application of the above method would be unreasonable or arbitrary as applied in a particuler case, the "full-time weekly hours" for such individual shall be determined in accordance with fair and reasonable methods prescribed by the Commission.

(2) An individual's "hourly rate of earnings" shall be determined by dividing his total wages for the last thirteen weeks or if there are less than thirteen, all his weeks of employment for a particular employer, which preceded the close of his most recent week of employment for that employer, and during which he was employed for his full-time weekly hours or more, by the total number of hours of employment within such weeks; the quotient so obtained shall be his hourly rate of earnings until a subsequent determination is made, provided that if the application of such method of determination

would be unreasonable or arbitrary as applied in a particular case, the "hourly rate of earnings" of such individual shall be determined in accordance with fair and reasonable methods prescribed by the Commission.

(3) The Commission may, after fair notice and opportunity to be heard, determine the full-time weekly hours customarily worked, or the hourly rate of earnings customarily received, or both, by employees in any trade or industry or any type of employment therein, in this State, in any part of this State, or in any establishment of a particular employer in this State. Such determinations shall be made and published in accordance with the provisions of this Act for general rules. Thereafter, until such determination is amended or rescinded, such weekly hours or such hourly rate of earnings, or both, shall be deemed to be the full-time weekly hours or the hourly rate of earnings, or both, of any individual employed by an employer in such trade, industry or type of employment, provided that, upon showing of good cause therefor, the Commission may exempt any such individual or employer from the application of such determination if it finds that the application thereof to him would be impracticable or inequitable.

BENEFIT ELIGIBILITY CONDITIONS

§ 4. An unemployed individual shall be eligible to receive benefits with respect to any week only if it has been found by the Commission that:

(a) He has made a claim for benefits in accordance with the provisions of Section 6 (a) of this Act.

(b) He has registered for work at the employment office designated by the Executive Director within such time limits and with such frequency and in such manner (such as in person or in writing) as the Commission by general rule prescribe, provided that failure to comply with this condition may be excused by the Commission upon a showing of good cause therefor.

(c) He is physically and mentally able to work, and is available for work.

(d) Prior to any week for which he claims benefits for total unemployment, he has been totally unemployed for a waiting period of at least three weeks with respect to which he received no benefits but during which he was eligible for benefits in all other respects, except for the requirements of subsection (a) and subsection (e) of this section, and was not ineligible for benefits under any provision of Section 5, except subsection (f) thereof of this Act. Such three weeks of total unemployment need not be consecutive, but shall be accumulated over the period of twenty-six consecutive weeks preceeding any week for which he claims benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of total unemployment; and provided further that such three weeks of total unemployment occur after benefits first could become payable to any individual under this Act.

(e) He has had at least twenty weeks of employment within the fifty-two consecutive weeks preceding the close of his most recent week of employment.

DISQUALIFICATION FOR BENEFITS

§ 5. An individual shall be ineligible for benefits:

(a) For the week in which he has left work voluntarily without good cause or has been discharged for misconduct and for not less than two nor more than nine next following weeks (in addition to the waiting period), as determined by the Commission in each case according to the circumstances of the case.

(b) If an otherwise eligible individual fails, without good cause, either to apply for suitable work when notified by the employment office, or to accept suitable work when offered him or return to his customary self-employment, if any, he shall thereby become ineligible for benefits for the week in

which such failure occurred and for not less than two nor more than nine next following weeks (in addition to the waiting period) as determined by the Commission.

"Suitable work" shall mean any work for which the individual in question is reasonably fitted, which is located within a reasonable distance of his residence or last employment, and which is not detrimental to his health, safety or morals.

Notwithstanding any other provision of this Act, no work shall be deemed suitable, and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(c) An individual who has left (or partially or totally lost) his employment with an employer because of a strike or other bona fide labor dispute shall not be eligible for benefits from such (or any previous) employer's account for any week in which such strike or other bona fide labor dispute is in active progress in the establishment in which he is or was employed.

(d) An individual shall not be eligible for benefits from a given employer's account for any week in which he is unemployed due to an act of God, fire or other catastrophe, or act of civil or military authority, directly affecting the place in which he was employed by such employer.

(e) For any week with respect to which the individual is receiving or has received remuneration in the form of:

1. Wages in lieu of notice, or any payment by the way of compensation for the loss of wages through an Employee Pension Plan;

2. Compensation for disability under the Workmen's Compensation Law of any state or under a similar law of the United States; or

3. Old Age Benefits under Title II of the Social Security Act, as amended;

Provided that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such week if otherwise eligible, benefits reduced by the amount of such remuneration.

(f) Chargeable against weeks of employment for a particular employer if he has not been employed by that employer for a probationary service period of at least two weeks of employment.

CLAIMS FOR BENEFITS

§ 6. (a) *Filing.* Claims for benefits shall be made in in accordance with such regulations as the Commission may prescribe, at the employment office nearest either to the individual's place of residence or to the place of his most recent employment. An employer shall if requested give to each of his employees at the time such employee becomes totally unemployed, a printed statement of the regulations prescribed by the Commission relating to the filing of claims for benefits. Such printed statements shall be supplied by the Executive Director to each employer without cost to him.

(b) *Initial Determination.* A deputy or representative designated by the Executive Director, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of the facts found by him, may determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or may

refer such claim to the Commission, which shall make the same determination with respect thereto in accordance with the procedure prescribed in subsection (e) of this section. He shall promptly notify the claimant and the employer or employers against whose reserve account such benefits are chargeable, of the decision and the reasons therefor. Unless the claimant or such employer or employers within seven calendar days after the delivery of such notification, or within seven calendar days after such notification was mailed by registered mail to his last known address, files with the Commission an appeal from such decision and applies for a hearing, such decision shall be final and benefits shall be paid or denied in accordance therewith. In the event of an appeal no benefits shall be paid until the final determination of that appeal by the last body to which the appeal is presented and such benefits, if any awarded, shall bear interest at the rate of six per cent (6%) per annum from the date said benefit first became due until paid.

Upon motion of either party and a sufficient showing of reason and necessity therefor, the circuit court to which an appeal is taken may continue in force the award, judgment or order appealed from, pending its decision of such appeal, for such period, but to be suspended upon the execution by the adverse party of a supersedeas bond for appeal to the Court of Appeals.

(c) *Appeals.* Unless such request for hearing is withdrawn, the Commission, after affording the parties reasonable opportunity for fair hearing upon not less than ten days' notice, shall affirm, modify or set aside the findings of fact and decision of the deputy. The parties shall be duly notified of such decision and the reasons therefor which shall be deemed to be final, unless within twenty days after the date of such decision, an appeal is taken to the Circuit Court.

(d) *Continuous Juridiction.* Upon their own initiative, or upon application of any party in interest, on the ground of

a change in conditions, or because of a mistake as to fact, the Commission may, at any time within one year after the making thereof, review an award of benefits or the denial of a claim therefor, in accordance with the procedure prescribed in respect to claims, and in accordance with such review, issue a new decision which may award, terminate, continue, increase or decrease such benefits. Such new order shall not affect any benefits paid before the date thereof under authority of the prior order and shall be subject to judicial review as provided in this section.

(e) *Procedure.* The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with reasonable rules prescribed by the Commission for determininng the rights of the parties, the hearing being conducted in a summary manner. No member of the Commission shall participate in any case in which he is an interested party. The Chairman shall act alone in the absence or disqualification of any other member. In no case shall the hearings proceed unless the Chairman of the Commission is present. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing shall be reduced to writing, but need not be transcribed unless the disputed claim is further appealed.

(f) *Oaths and Witnesses.* In the discharge of the duties imposed by this Act, the members of the Commission, or the duly authorized representatives of the Commission as designated by its rules, shall have power to administer oaths and affirmations, take depositions, certify to official acts, and to issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary and relevant as evidence in connection with the disputed claim or the administration of this Act.

(g) *Subpoenas.* In case of contumacy by, or refusal to obey a subpoena issued to any person, and court of this State within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission, or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a member thereof, or its duly authorized representative, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court without just cause may be punished by said court as a contempt thereof.

(h) *Protection against Self-Incrimination.* No person shall be excused from attending and testifying or from producing books, papers, correpsondence, memoranda, and other records before the Commission or a member thereof, on the ground that the testimony or evidence, documentary or otherwise required of him, may tend to incriminate him or subject him to a penalty or forfeiture; but no person, firm or corporation shall be prosecuted or subjected to any suit, penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or its agent or employee is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence documentary or otherwise, except that such witness so testfying shall not be exempt from prosecution and punishment for perjury committeed in so testifying.

(i) *Witness Fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Commission. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this Act.

(j) *Appeal to Courts.* Any decision of the Commission,

in the absence of an appeal therefrom as herein provided, shall become final.twenty days after the date thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission, as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney who is designated by the Executive Director for that purpose or at the request of the Executive Director, by the Atorney General.

(k) *Court Review.* Within twenty days after the decision of the Commission has become final, any party aggrieved thereby may secure judicial review thereof by filing a petition in the Circuit Court of the county in which the claimant was last employed by an employer whose reserve account is affected by such claims, against the Commission for the review of its decision, in which action any other party to the proceeding before the Commission shall be made a defendant. Such petition shall state fully the grounds upon which a review is sought, assign all errors relied on and shall be verified by the petitioner, who shall furnish copies thereof for each defendant to the Commission, who shall deliver one such copy to each of such defendants. Summons shall issue upon the petition directing the Commission to file answer within fifteen days after service thereof; such summons shall be served upon a member of the Commission, or upon such person as the Commission may designate and such service shall be deemed complete service upon all members of the Commission. With its answer, the Commission shall certify and file with the Court all documents and papers and a transcript of all testimony taken in the matter, and orders made therein, together with its findings of fact and decision therein, provided, however, that, if consented to by the petitioner and the adverse party, an abstract of any portion of the record may be certified by the Commission in lieu of certifying such portion of the

record in full. The Commission may also, in its descretion, certify to such Court questions of law involved in any decision by it. Such actions, and the questions so certified, shall be heard by the Court in a summary manner upon the record certified by the Commission and shall be given precedence over all other civil cases except cases arising under the Workmen's Compensation Law of this State. The Court shall enter judgment affirming, modifying or setting aside the order or decision appealed from, or determining the question of law certified to it by the Commission, and may in advance of judgment, in its discretion, remand the case to the Commission for further proceedings in accordance with the direction of the Court. An appeal may be taken from the decision of the Circuit Court to the Court of Appeals, in the same manner but not inconsistent with the provisions of this Act, as is provided in equity cases. It shall not be necessary, in any judicial proceeding under this section to enter exceptions to the rulings of the Commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination.

CONTRIBUTIONS

§ 7. (a) *Payments.*

(1) After December 31, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment (as defined in Section 19(g)) occurring during such calendar year. Such contributions shall become due and be paid monthly by each employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-

half cent or more, in which case it shall be increased to one cent.

(b) *Rate of Contribution after 1936.* Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) One and eight-tenths (1.8) per centum with respect to employment during the calendar year, 1937;

(2) Two and seven-tenths (2.7) per centum with respect to employment during the calendar years 1938, 1939, 1940, 1941; and

(3) With respect to employment after December 31, 1941, the percentage determined pursuant to subsection (c) of this section.

(c) *Future Rates Based on Benefit Experience.* The Commission shall, for the year 1939 and for each calendar year thereafter, determine the contribution rate applicable to each employer on the basis of his actual experience in the payment of contributions credited to his reserve account and with respect to benefits charged against his separate reserve account, in accordance with the following requirements:

(1) Each employer's rate shall be two and seven-tenths (2.7) per centum, unless and until there shall have been one calendar year throughout which an individual in his employ could have received benefits if unemployed and eligible.

(2) Each employer's rate for the twelve months commencing January 1, of any calendar year, shall be determined on the basis of the record of his reserve account up to the beginning of such calendar year. If, at the beginning of such calendar year, the balance in such reserve account equals at least five times the largest total amount of benefits charged against such account within any one of the three preceding calendar years, his contribution rate shall

(a) Be two (2) per centum if such balance equals or exceeds ten and three-tenths (10.3), but is less than thirteen and

seven-tenths (13.7), per centum of his annual payroll for the preceding twelve consecutive calendar months;

(b) Be one (1) per centum, if such balance equals or exceeds thirteen and seven-tenths (13.7), but is less than seventeen and one-tenth (17.1) per centum of his annual payroll for the preceding twelve consecutive calendar months;

(c) Cease if such balance equals or exceeds seventeen and one-tenth (17.1) per centum of his annual payroll for the preceding twelve consecutive calendar months.

(3) If in any month any payment of benefits has been made from the pooled account because his reserve account is exhausted, for the twelve months immediately following, the employer's rate shall be three and seven-tenths (3.7) per centum.

(d) *Contribution by Employees.* (1) Each employee shall contribute to his employer's reserve account five-sixths (5/6) of one per centum and to the pooled account one-sixth (1/6) of one per centum of his wages paid by an employer with respect to his employment which occurs after December 31, 1936, after the expiration of the applicable probationary period, and afer such employer has become an employer under Section 19(f) of this Act, provided that in no case shall the rate of contributions required of any employee exceed fifty (50) per centum of the total rate of contributions required from his employer with respect to the same time. Each employer shall, notwithstanding any provisions of law in this State to the contrary, withhold in trust the amount of his employees' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his employees as the Commission may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the Commission in such manner and at such times as the Commission may prescribe. If any employer fails to deduct the contributions of any of his employees at the time their wages

are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, but for the purpose of Section 14 hereof, such contributions shall be treated as employer's contributions required from him. As used in this Act, except when the context clearly requires otherwise, the term contributions shall include the contributions of employees pursuant to this section.

(2) Every employer who has elected to become subject to this Act or to cease to be subject to this Act, pursuant to the provisions of Section 8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the Commission may determine to be necessary to give notice thereof to his employees.

(3) Contributions by employees, payable to the fund as herein provided, shall be exempt from garnishment, assignment, attachment, execution, or any other remedy for the collection of debts.

RATE OF CONTRIBUTIONS FOR 1936

§ 7-a. With respect to the calendar year 1936, contributions shall be due and payable by employers who have employed eight (8) or more employees (whether or not the same employees) in employment for some portion of each of some twenty (20) days during the year 1936, each day being in a different calendar week. Such contributions shall be equal to nine-tenths (9/10) of one per centum of the wages payable by such employers for employment during such year 1936, and shall become due and payable at such time and in such manner as the Commission may prescribe.

PERIOD, ELECTION, AND TERMINATION OF EMPLOYER'S COVERAGE

§ 8. (a) Any employment unit which is or becomes an

employer subject to this Act within any calendar year shall be subject to this Act during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this Act only as of the first day of January of any calendar year, if it files with the Commission, prior to the fifth day of January of such year, a written application for termination of coverage, and the Commission finds that there were no twenty different weeks within the preceding calendar year, within which such employing unit employed four or more individuals in employment subject to this Act. For the purpose of this subsection, the two or more employing units mentioned in paragraph (2) or (3) or (4) of Section 19(f) shall be treated as a single employing unit.

(c) An employing unit, not otherwise subject to this Act, which files with the Commission its written election to become an employer subject hereto for not less than two calendar years, shall with the written approval of such election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendear year subsequent to such two calender years, only if at least thirty days prior to such first day of January, it has filed with the Commission a written notice to that effect.

UNEMPLOYMENT COMPENSATION FUND

§ 9. (a) *Establishment and Control.* There is hereby established a special fund to be known as the Unemployment Compensation Fund which shall be administered separate and apart from all public monies or funds of the State. This fund shall consist of all contributions and monies paid into or received by it for the payment of benefits; of any property or securities acquired through the use of monies belonging to the fund, and of interest earned upon any monies paid into or received by it. Subject to the provisions of this Act, the Com-

mission is vested hereby with full power, authority, and jurisdiction over the fund, including all monies and property or securities belonging thereto, and may perform any and all acts, whether or not herein specifically designated, which are necessary or convenient in the administration thereof consistent with the provisions of this Act.

(b) *Withdrawals.* The fund shall be administered exclusively for the purposes of this Act, and monies withdrawn therefrom, except for deposit in the Unemployment Trust Fund as provided in this Act, shall be used solely for the payment of benefits. Payment of benefits shall be made in accordance with the rules prescribed by the Commission and the Department of Finance consistent with the provisions of this Act. Withdrawals from the fund shall not be subject to any provisions of law requiring specific appropriations or other formal release by State officers of monies in their custody, except that all vouchers drawn on the fund shall be approved in writing by the Commissioner of Finance.

(c) *Collection, Deposit and Investment.* The State Treasurer shall be *ex officio* the treasurer and custodian of the fund. He shall administer the fund in accordance with the provisions of this Act and the directions of the Commission and shall pay all vouchers approved by the Department of Finance and drawn upon the fund in accordance with such rules as the Commission may prescribe. All contributions, upon receipt thereof by the Commission shall be forwarded to the State Treasurer, who shall immediately deposit them, together with any monies earned thereby while in his custody, and any other monies received by him for the payment of benefits from any source other than the Unemployment Trust Fund, with the Secretary of the Treasury of the United States of America, to the credit of the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this State relating to the deposit, administration, release

or disbursement of monies in the possession or custody of the State or monies deposited in any fund created by the State to the contrary notwithstanding. All monies belonging to the Unemployment Compensation Fund, and not otherwise deposited, invested or paid over pursuant to the provisions of this Act, may be deposited by the State Treasurer under the direction of the Department of Finance in any banks or public depositories in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of monies in the Unemployment Compensation Fund, any other provisions of the law to the contrary notwithstanding. The State Treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount to be fixed by the Commission and approved by the Governor, and in a form prescribed by law and approved by the Attorney General. Premiums for the said bond shall be paid as provided in Section 13 of this Act.

(d) *Withdrawal of Fund for Payment of Benefits.* The Commission through the State Treasurer acting as its fiscal agent shall requisition from time to time from the Unemployment Trust Fund such amounts, not exceeding the amount standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period, but for no other purpose. Upon receipt thereof the State Treasurer shall deposit such monies in the Unemployment Compensation Fund in a special benefit account, and shall issue his vouchers for the payment of benefits. All vouchers issued by the State Treasurer for the payment of benefits shall bear the signature of the State Treasurer and the approval in writing of the Commissioner of Finance. Any balance of monies so requisitioned which remains unclaimed or unpaid in the special benefit account to the Unemployment Compensation Fund after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates

for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of the Unemployment Trust Fund, as provided in subsection (c) of this section.

(e) *Management of Funds upon Discontinuance of Unemployment Trust Fund.* The provisions of subsections (a), (b), (c), and (d) to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other State is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all monies, properties or securities therein, belonging to the Unemployment Compensation Fund of this State shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit and release such monies, properties or securities in a manner approved by the Commission and the Department of Finance, in accordance with the provisions of this Act, provided that such monies shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The State Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commission and the Department of Finance.

(f) *Reserve Accounts for the Employees of Each Em-*

ployer. There shall be credited to an employer's reserve account five-sixths (5/6) of all amounts contributed to the fund by each employer and by his employees. The remaining one-sixth (1/6) shall be credited to the pooled account as provided in subsection (h) hereof.

(g) *Joint Accounts.* Whenever two or more employers file an application with the Commission to mingle their single reserve accounts in a joint reserve account, as if they constituted a single employer, the Commission shall maintain such joint account as if it were a single account, subject to such general rules for the establishment, conduct and dissolution of joint accounts as the Commission may prescribe.

(h) *Pooled Account in the Unemployment Compensation Fund.* In addition to the separate or joint reserve accounts, provided in subsections (f) and (g), there shall be maintained within the Fund a pooled account mingled and undivided. There shall be credited immediately to such pooled account one-sixth of all contributions required under this Act, and there shall be credited thereto any balance remaining to the credit of the reserve account of an employer two years after the employer has ceased to be subject to the provisions of this Act, except as otherwise provided in subsection (j) of this section, and all realized earnings and gains of the Fund and charged thereto all losses of the Fund.

(i) *Voluntary Contributions by Employers.* Any employer may at any time make voluntary payments, additional to the contributions required under this Act, to his reserve account, pursuant to the general rules established by the Commission.

(j) *Successive Employer's Reserve Account.* Any employing unit which acquires its organization, trade or business in whole or in part from an employer for whom a reserve account has been maintained by the Commission as herein provided, shall immediately notify the Commission thereof, and shall assume the position of such employer with respect

to the resources and liabilities of such reserve account in proportion to the extent of such acquisition as determined for the purposes of this Act by the Commission after appropriate notice and opportunity to be heard, as if no change with respect to such employer's reserve account had occurred.

(k) *Payment from Reserve Account.* The liability of each employer's reserve account shall be limited to the amount therein and to the payment of benefits based solely upon weeks of employment by such employer. Benefits chargeable against an employer's reserve account shall either all be paid in full, or shall be reduced at the same proportionate rate, in accordance with the following requirement whenever the current resources of an employer's reserve account, including contributions payable thereto but unpaid, and excluding a sum sufficient to pay all benefits potentially payable under pending claims with respect to unemployment occurring prior to such weeks, are less than the total sum of all benefits payable from such account with respect to unemployment occurring in such week, then all benefits payable from such account with respect to unemployment occurring in such week shall be proportionately reduced and paid irrespective of the weekly benefit amount that would otherwise be applicable, or if such current resources of such account are completely exhausted, no benefits shall be chargeable against such account with respect to such week. Any benefits paid in accordance with the foregoing requirements shall be charged against the recipient's weeks of employment in accordance with the provisions of Section 3 of this Act and the employer's reserve account chargeable therewith, and the Unemployment Compensation Fund, shall be deemed to have satisfied their entire liability with respect thereto, but such benefit payments, as well as benefits due but not payable because of the complete exhaustion of an employer's reserve account may be supplemented as provided in subsection (1) of this section.

(1) *Payment from Pooled Account.* Benefits shall be

charged against the pooled account only if and to the extent that an employer's reserve account does not equal the maximum amount of benefits then due and chargeable against such account as provided in this Act. To the extent that monies in the pooled account are sufficient therefor, the Commission shall supplement any reduced benefits payable pursuant to subsection (k) of this section or any benefits due but not payable because of the complete exhaustion of an employer's reserve account, by the amount necessary to pay all individuals to whom reduced benefits are so payable, or to whom benefits are so due but not payable, with respect to any week pursuant to that subsection, aggregate benefits so far as practicable, equal to the same proportion of the maximum benefits that would otherwise be due to each such individual with respect to such week. Benefits paid or supplemented from the fund's pooled account shall be charged against the recipient's weeks of employment in accordance with the provisions of Section 3 of this Act.

ADMINISTRATIVE ORGANIZATION

§ 10. (a) There is hereby created in the Department of Industrial Relations a Division to be known as the Division of Unemployment Compensation, which shall be administered by an Executive Director and two associate directors composing a board to be known as the Unemployment Compensation Commission.

The Director of Unemployment Compensation and the associate directors shall be appointed by the Governor; the Executive Director shall be appointed as a disinterested representative of the State and the public, and shall be *ex officio* Chairman of the Commission; one associate director shall be appointed as a representative of labor and one associate director shall be appointed as a representative of employers. These appointments shall be made for terms not to exceed four years on the basis of their merit and fitness to perform the duties and exercise the responsibilities of their

respective offices, and shall serve at the pleasure of the Governor.

Every member so appointed shall serve until his successor is appointed and qualified, and any appointment to a vacancy shall be for the unexpired term in question.

There is hereby established under the Commission, two coordinate sections, the Kentucky State Employment Service, created pursuant to Section 12 of this Act, and the Unemployment Compensation Section.

Each section shall be responsible for the discharge of its distinctive functions. Each section shall be a separate administrative unit with respect to personnel, budget, and duties, except insofar as the Commission may find that such separation in the local offices is impracticable because of the small size of the territory served or of the volume of work performed. The Kentucky State Employment Service shall be administered by a full-time salaried Director who shall be appointed by the Governor and shall be subject to the supervision and direction of the Commission. The Commission is authorized to prescribe the duties of the Director of the Kentucky State Employment Service in accordance with the provisions of Section 12 of this Act. Neither the Director of the Kentucky State Employment Service nor the Executive Director, Division of Unemployment Compensation, shall, during his term of office, engage in any other business, vocation or employment and no Executive Director, or associate director shall, during his term of office serve as an officer or committee member of any political party organization.

(b) *Quorum.*

The Chairman and one other member of the Commission shall constitute a quorum.

(c) *Salaries.*

Because of increased and added responsibilities developing upon the Commissioner of Industrial Relations, by virtue

of the enactment of this measure, the salary of the Commissioner is hereby authorized to be increased from Four Thousand Dollars per annum, as previously provided, to a sum not exceeding Five Thousand Dollars per annum to be fixed by the Governor. The Executive Director, Division of Unemployment Compensation, shall be paid from the Unemployment Compensation Administration Fund a fixed salary at a rate to be fixed by the Governor and the Social Security Board, not to exceed five thousand dollars per annum, plus necessary expenses, and shall devote his full time to the duties of his office. Each associate director representing labor or employers shall be paid from the Unemployment Compensation Administration Fund fees at the rate of twenty dollars each per day plus necessary expenses while engaged in the discharge of his official duties, not exceeding total fees of three thousand dollars for any year of service.

ADMINISTRATION

§ 11. (a) *Duties and Powers of the Commission.* It shall be the duty of the Unemployment Compensation Commission to administer this Act; and it shall have power and authority to adopt, amend or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon approval by the Commissioner of Industrial Relations and upon publication in the manner, not inconsistent with the provisions of this Act, which the Commissioner shall prescribe. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Act, and shall have an official seal which shall be judicially noticed. Not later than the first day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this Act during the pre-

ceding calendar year and shall make such recommendations for amendments to this Act as the Commission deems proper. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and make recommendations with respect thereto.

(b) *Regulations and General and Special Rules.* General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after approval by the Commissioner of Industrial Relations and filing with the Secretary of State and publication in one or more newspapers of general circulation in this State. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commission and shall become effective in the manner and at the time prescribed by the Commission.

(c) *Publication.* The Commission shall cause to be printed for distribution to the public the text of this Act, the Commission's general rules and its annual reports to the Governor, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) *Personnel.* Subject to other provisions of this Act, the Commission is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of duties. All positions shall be filled by persons selected and appointed on a non-partisan merit basis. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may by written orders, delegate to any such person so appointed such power and

authority as it deems reasonable and proper for the effective administration of this Act, and may in its discretion bond any person handling monies or signing checks hereunder.

(e) *Advisory Councils.* The Commission shall appoint a State Advisory Council and local Advisory Councils, composed in each case of equal numbers of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment or affiliations, and of such members representing the general public as the Commission may designate. Such councils shall aid the Commission in formulating policies and discussing problems related to the administration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

(f) *Employment Stabilization.* The Unemployment Compensation Commission and the Director, Kentucky State Employment Service, with the advice and aid of the advisory councils, and through the proper sections, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation by municipalities, counties, school districts and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible and to these ends to carry on and publish the results of investigation and research studies.

(g) *Records and Reports.* Each employing unit shall keep true and accurate employment records of all persons employed by it, and of the hours worked for it by each, and of the wages paid by it to each such person, and such other information as may be deemed necessary by the Commission

to the proper administration of this Act. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require any employing unit to furnish to it from time to time information concerning the total amount of wages paid, total number of persons employed, and an individual record of each new person employed and an individual record of each person whose employment has been terminated or who has been laid off, and of each person employed part time entitled to benefits, and other related matters which the Commission deems necessary to the effective administration of this Act. Information thus obtained shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity, but any claimant at a hearing before the Commission or its duly authorized representative shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee of the Department of Industrial Relations or other State Department who violates any provision of this Section shall be deemed guilty of a misdemeanor and upon conviction be fined not less than Twenty Dollars nor more than Two Hundred Dollars, or imprisoned for not longer than ninety days, or both.

(h) *State-Federal Cooperation.* In the administration of this Act, the Commission shall cooperate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports in such form and containing such information as the Social Security Board, may, from time to time, require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply

with regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the administration of this Act.

Upon request therefor the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act.

(i) *Study of Partial Unemployment.* The Governor shall appoint a committee of three members who shall make a study of partial unemployment in this State and prior to November 1, 1937, shall make recommendations to the Commission with respect to the inclusion in this Act of provision for the payment of benefits for partial unemployment. Such committee shall consist of one member representative of employees, one member representative of employers, and one impartial person who shall be chairman. Not later than December 1, 1937, the Commission shall transmit the report and recommendations of the committee, together with its comments thereon and recommendations to the Governor.

EMPLOYMENT SERVICE

§ 12. (a) *Kentucky State Employment Service.* The Commsision shall create a section to be known as the Kentucky State Employment Service which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purpose of performing such duties as are within the purview of the Act of Congress, entitled "An Act to provide for the establishment of a national employment service and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (48 Stat. 113, U. S. Code,

Title 29, Section 49(c)), as amended. Any existing free public employment offices maintained by the State but not heretofore under the jurisdiction of the Commission shall be immediately transferred to the jurisdiction of such section, and upon such transfer all duties and powers conferred upon any other department, agency, or officer of this State relating to the establishment, maintenance and operation of free public employment offices shall be vested in said section. The said section shall be administered by a full-time salaried director, who shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this State, in conformity with Section 4 of said Act, and this State will observe and comply with the requirements thereof. The Kentucky State Employment Service is hereby designated and constituted the agency of this State for the purpose of said Act. The Director of the employment service section shall be paid a fixed monthly salary at a rate to be fixed by the Governor and the Director of the United States Employment Service not to exceed Four Thousand Five Hundred Dollars per annum. The Governor is directed to appoint the Director and the Director is authorized to appoint the other officers and employees of the Kentucky State Employment Service, subject to the approval of the Governor. All such appointments shall be made in accordance with regulations prescribed by the Director of the United States Employment Service.

(b) *Financing.* All monies received by this State under the said Act of Congress, as amended, shall be paid into the special "employment service account" in the Unemployment Compensation Administration Fund, and said monies are

hereby made available to the Kentucky State Employment Service to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, said section is authorized to enter into agreements with any political subdivision of this State or any of its municipalities or with any private, non-profit organization, and as a part of any such agreement the Director of the Kentucky State Employment Service may accept monies, services, or quarters as a contribution to the employment service account.

UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

§ 13. (a) *Special Fund.* There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All monies which are deposited or paid into this fund are hereby appropriated and made available to the unemployment compensation and employment service sections. All monies in this fund shall be expended solely for the purpose of defraying the cost of the administration of this Act, and for no other purpose whatsoever. The fund shall consist of all monies appropriated by this State, and all monies received from the United States of America, or any agency thereof, including the Social Security Board and the United States Employment Service, or from any other source, for such purpose. All fines and penalties collected pursuant to the administration of this Act are hereby appropriated to and shall be paid into the fund's pooled account. All monies in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balance in this fund shall not lapse at any time but shall be continuously available to the unemployment compensation and employment service sections of the Unemployment Compensation Commission, for expenditures consistent

with this Act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the Commission and approved by the Governor and in a form prescribed by law and approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the treasurer of the Unemployment Compensation Fund under Section 9 of this Act, shall be paid from the monies in the Unemployment Compensation Administration Fund.

(b) *Employment Service Account.* A special "employment service account" shall be maintained as a part of the Unemployment Compensation Administration Fund for the purpose of maintaining the public employment offices established pursuant to Section 12 of this Act and for the purpose of cooperating with the United States Employment Service. There is hereby appropriated to the employment service account of the Unemployment Compensation Administration Fund, from any money in the State Treasury not otherwise appropriated, for the fiscal year ending June 30, 1937, the sum of Sixteen Thousand Dollars and for the fiscal year ending June 30, 1938, the sum of Twenty Thousand Dollars. In addition, there shall be paid into such account the monies designated in Section 12(b) of this Act, and such monies as are apportioned for the purposes of this account from any monies received by this State under Title III of the Social Security Act, as amended.

Collection of Contributions

§ 14. (a) *Penalties on Past Due Contributions.* Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall be subject to a penalty at the rate of one per centum per month from and after such date until payment plus accrued penalties is

received by the fund, provided that the Commission may prescribe fair and reasonable general rules pursuant to which such penalties shall not accrue during the first calendar year that any employer is subject to this Act. Penalties collected pursuant to this subsection shall be paid into the fund's pooled account.

(b) *Collection.* If, after due notice, any employer default in any payment of contributions or penalties thereon, the amount due shall be collected by civil action in the name of the State, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or penalties thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this Act and cases arising under the Workmen's Compensation Law of this State.

(c) *Priorities under Legal Dissolutions or Distributions.* In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes but on a parity with claims for wages of not more than Two Hundred and Fifty Dollars to each claimant, earned within six months of the commencement of the proceeding, and prior awards of compensation under the Workman's Compensation Act of this State. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898 as amended, contributions then or thereafter due shall be entitled to such priority as is provided in Section 64(b) of that Act (U. S. Code, Title II, Section 104(b) as amended).

PROTECTION OF RIGHTS AND BENEFITS

§ 15. (a) *Waiver of Rights Void.* No agreement by an individual to waive, release or commute his rights to benefits or any other rights under this Act shall be valid. No agreement by an employee or by employees to pay all or any portion of an employer's contributions, required under this Act from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver by an employee of any right hereunder. Any employer or officer or agent of an employer who violates any provision of this subsection shall be deemed guilty of a misdemeanor and upon conviction shall for each offense, be fined not less than One Hundred Dollars nor more than One Thousand Dollars, or be imprisoned for not more than six months, or both.

(b) *Limitation of Fees.* No employee shall be charged fees of any kind in any proceeding under this Act by the Commission or its representatives. Any individual claiming benefits in any proceeding before the Commission, or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such service more than an amount approved by the Commission. Any person who violates any provision of this subsection shall be deemed guilty of a misdemeanor and, upon conviction shall for each such offense, be fined not less than Fifty Dollars nor more than Five Hundred Dollars or imprisoned for not more than six months, or both.

(c) *No Assignment of Benefits, Exemptions.* No assignment pledge or encumberance of any right to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds

of the recipients, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessaries furnished to such individual or his spouse or dependents during the time when such individual was employed. No waiver of any exemption provided for in this subsection shall be valid.

PENALTIES

§ 16. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this Act, either for himself or for any other person, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject thereto or to avoid or reduce any contribution or other payment required from an employing unit under this Act, or who willfully fails or refuses to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) - Any person who shall willfully violate any provision of this Act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a specific penalty is neither prescribed herein nor provided by any other applicable statute, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty Dollars nor more than Fifty Dollars, and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the non-disclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this Act while any conditions for the receipt of benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall be liable to repay to the Commission for the Unemployment Compensation Fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in Section 14(b) of this Act for the collection of past due contributions.

REPRESENTATION IN COURT

§ 17. (a) In any civil action to enforce the provisions of this Act the Commission and the State may be represented by any qualified attorney who is designated by the Governor for this purpose or at the Commission's request, by the Attorney General. In case the Governor designates special counsel to defend, on behalf of the State, the validity of this Act, the expenses and compensation of such special counsel and of any experts employed by the Commission in connection with such proceeding, may be charged to the Unemployment Compensation Administration Fund.

(b) All criminal actions for violation of any provision

of this Act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the Attorney General of the State; or, at his request and under his direction, by the prosecuting attorney, of any county in which the employer has a place of business or the violator resides.

NON-LIABILITY OF STATE

§ 18. Benefits shall be deemed to be due and payable under this Act only to the extent provided in this Act and to the extent the monies are available therefor to the credit of the Unemployment Compensation Fund and neither the State nor the Division of Unemployment Compensation shall be liable for any amount in excess of such sums.

DEFINITIONS

§ 19. As used in this Act, unless the context clearly requires otherwise:

(a) "Annual Payroll" means the total amount of wages payable by an employer (regardless of the time of payment), for employment during a calendar year.

(b) "Benefits" means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

(c) "Commission" shall mean the Unemployment Compensation Commission of the Division of Unemployment Compensation of the Department of Industrial Relations.

Be it provided, however, that wherever the term "Commission" is used to denote the authority required under this Act to perform administrative or ministerial functions, shall be construed to mean the Executive Director of Unemployment Compensation who sits *ex officio* as the Chairman of the Unemployment Compensation Commission instead of the Commission composed of three members.

The administrative or ministerial functions shall be con-

strued to include the routine of operating and managing the activities incident to the handling of records, reports, files, correspondence, the employment of personnel and the management of same, the conduct of negotiations with employers, employees, and co-operation with the Social Security Board authorized hereunder and all such functions of a similar nature but administration and/or ministerial functions shall not be construed to include the adjudication of any disputed claims or appeals or any similar matters of a quasi-judicial nature nor the adoption, amendment, recission or promulgation of general and special rules, or regulations of general application, except that as to regulations the executive Director may promulgate the same where the exigencies of the situation in his judgment require their immediate promulgation.

(d) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by this Act.

(e) "Employing Unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this Act.

(f) "Employer" means:

(1) Any employing unit which in each of twenty different weeks within either the current or the preceding calendar year (whether or not such weeks are or were consecutive) has or had in employment, four or more individuals (not

necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week);

(2) Any employing unit which acquired its organization trade or business, or substantially all the assets thereof from another which at the time of such acquisition was an employer subject to this Act;

(3) Any employing unit which acquired its organization trade or business, or substantially all the assets thereof from another employing unit and which, if treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which, having become an employer under paragraph (1), (2), or (3), has not under Section 8 ceased to be an employer subject to this Act; or

(5) For the effective period of its election pursuant to Section 8(c) any other employing unit which has elected to become fully subject to this Act.

(g) "Employment" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, in which the relationship of the individual performing such service and the employing unit for whom such services are rendered is, as to those services, the legal relationship of employer and employee, which service: (1) is performed in this State by an individual; or (2) is performed elsewhere, but is incidental to such service in this State, provided contributions are not required and paid with respect to such services performed elsewhere under an Unemployment Compensation Law of any other State; or (3) is performed under a contract of hire made in this State for an enterprise located in this State, under which contract some service is performed in this State, provided that with respect to service performed without this State under such contract of hire, contributions are not required and paid under an Employment Compensation Law of any other State; but the term shall not include:

(1) Service performed in this State incidental to service performed elsewhere, with respect to which services performed in this State, contributions are required and paid under an Unemployment Compensation Law of any other State;

(2) Service performed in the employ of this State, or of any political subdivision thereof or of any of its municipalities, or of any instrumentality of this State or its political subdivisions or its municipalities;

(3) Service performed in the employ of any other State or its political subdivision, or of the United States Government, or of an instrumentality of any other State or States or their political subdivisions or of the United States;

(4) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the Commission is hereby authorized and directed to enter into agreements which agreements shall become effective ten days after publication thereof in the manner provided in Section 11(b) of this Act, for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act;

(5) Agricultural labor;

(6) Domestic service in a private home;

(7) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(8) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(9) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(10) Service performed by those engaged as solicitors or agents for insurance companies.

(h) "Reserve Account" means a separate reserve account maintained by the Commission in the Unemployment Compensation Fund for each employer or group of employers in accordance with the provisions of this Act from which benefits are payable only with respect to the employment of individuals who are, or were, in the employ of such employer.

(i) "Employment Office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a State-controlled system of public employment offices.

(j) "Fund" means the Unemployment Compensation Fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(k) "State" includes in addition to the United States of America, Alaska, Hawaii, and the District of Columbia.

(l) "Total Unemployment". An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to him.

(m) "Unemployment Compensation Administration Fund" means the Unemployment Compensation Administration Fund established by this Act, from which administrative expenses under this Act shall be paid.

(n) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other

than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable average amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commission. Amounts paid to traveling salesmen or other employees as allowance or reimbursement for traveling or other expense incurred in the business of the employer constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee.

(o) "Week" means calendar week, ending at midnight Saturday, or the equivalent thereof, as determined in accordance with general rules of the Commission, provided that prior to the approval of any general rules the Commission finds that such rule will be fair and reasonable with respect to all affected parties.

(p) "Weekly Benefit Amount". An individual's "weekly benefit amount" with respect to any particular week of total unemployment means the amount of benefits he would be entitled to receive for such week, if totally unemployed and eligible which amount is determined by his full-time weekly wage from the employer or employers against whose weeks of employment of such individual, such benefits are then chargeable as provided in this Act.

(q) "Week of Employment" by an employer, except as otherwise provided in this Act, means each week occurring after December 31, 1936, and after such employer has become subject under Section 19(f) of this Act, within which the individual performs the plurality of his total hours of employment for employers, in employment for such employer, but does not include any week in which the plurality of such individual's total working hours is performed without this State,

with respect to which plurality of total working hours, contributions are required and paid under an Unemployment Compensation Law of some other State, or compensation is payable under an Unemployment Compensation Law of the United States.

(r) "Employee" means any person, including aliens and minors, employed for hire by an employer in an employment subject to this Act, except any person employed at other than manual labor at a rate of more than Twenty-Six Hundred Dollars a year or more than Fifty Dollars a week.

§ 20. *Saving Clause.*

The General Assembly reserves the right to amend or repeal all or any part of this Act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Act or by Acts done pursuant thereto shall exist subject to the power of the General Assembly to amend or repeal this Act at any time.

In the event that the Social Security Board does not, for any fiscal year, make the certification for payment to the State of Kentucky of funds for the assistance of this State in the administration of this Act, as provided by Title III of the Federal Social Security Act, or any amendments thereto, every employer subject to this Act shall, for such fiscal year, pay to the Unemployment Compensation Administration Fund, to be used for the administration of this Act, contributions equal to ten per centum of such employer's contributions for the same period for payment of benefits under this Act, such additional contributions being collected in the same manner as contributions for the payment of benefits.

SEPARABILITY OF PROVISIONS

§ 21. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision

to other persons or circumstances shall not be affected thereby.

REPEALER

§ 22. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

CONCURRENT WITH FEDERAL ACT

§ 23. If the tax imposed by Title IX of the Federal Social Security Act or any amendment thereto, or any other Federal tax against which contributions under this Act may be credited shall for any cause become inoperative, the provisions of this Act, by virtue of that fact shall likewise become inoperative, and any unobligated funds in the State Unemployment Compensation Fund or returned by the United States Treasurer because such Federal Social Security Act is inoperative, shall be refunded to the contributors proportionately to their unexpended contributions under the regulations of the Commission.

DECLARATION OF AN EMERGENCY

§ 24. Whereas, it becomes necessary to enact an Unemployment Compensation Act in Kentucky before the expiration of the calendar year, 1936, in order to conserve to the citizens of the Commonwealth of Kentucky the benefits of the contributions exacted from Kentucky employers under the Social Security Act, passed by the United States Congress of 1935, an emergency is hereby declared to exist and this Act shall become a law and be effective upon its approval by the Governor.

Dr. Shields moved that the House do now concur in said Substitute as proposed by the Senate; and,

Dr. Shields moved the Previous Question.

Whereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Said Substitute was then concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	T. P. Fitzpatrick	Elmer McGlothen
Henry H. Allen	James Garnett, Jr.	John Marshall
C. W. Anderson, Jr.	G. W. Garrett	C. S. Matherly
H. T. Baker	Ferd A. Gnau	D. T. Matlack
W. T. Baker	Ben Grogan	Duke Mayfield
B. F. Bedford	James T. Hamilton	G. S. Milam
Reuben J. Boling	C. L. Hammons	W. H. Miller
Douglas Bolling	W. L. Hampton, Jr.	John B. Mollett
Ollie J. Bowen	Thomas W. Hines	W. E. Mull
Wallace Brown	Price Holbrook	Rodes K. Myers
Dr. R. A. Byers	Clyde S. Howard	J. C. Nickell
Jas. C. Carter	Ira W. Hulette	Russell O'Neill
V. O. Chandler	John M. Hunnicut	Mel Petry
Floyd Clark	Ben W. Johnson	A. W. Pfeiffer
George S. Clay	J. H. Jones	J. C. Ramey
Roy Conway	O. C. Jones	Harry C. Records
Herbert Cook	R. T. Kirkman	L. K. Rice
Harry Davis	J. F. Ladd	Wade H. Riley
Sam Dever	Leslie Larrimore	Joe E. Robinson
Stanley S. Dickson	Robert E. Lee	John C. Robinson
George W. Dunlap	M. T. McCarthy	W. T. Rollo
Howard G. Early	T. B. McConnell	A. W. Ross
Garland Embry	J. L. McDermott	Carl Scheben
Walter R. Fannin	Lloyd MacDonald	Carl Schneider
Chas. P. Farnsley	W. F. McGary	Dr. B. F. Shields

P. L. Sidebottom	J. J. Thomas	W. G. Williams
Bruce Sloan	S. J. Wagner	Charles Wylie
Henry Stewart	Joseph L. Wall	John Kirtley, Spkr.
Dr. H. S. Swope	Henry Ward	
W. R. Tapp	L. R. Wells	—88

Dr. Shields moved that the title thereof be as amended.

Said motion was agreed to.

Resolved that the title thereof be as amended.

Dr. Shields moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Gnau moved that the Rules of this House be suspended for the purpose of allowing the Committees to report.

Said motion was agreed to.

Thereupon the Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Farnsley of the Committee on Banks and Banking:

H. B. 2. An Act exempting building and loan associations organized under the laws of this State and under the laws of the United States from the payment of income tax upon the entire net income of such corporations.

By Mr. Ramey of the Committee on State Property:

H. B. 7. An Act relating to the sale and purchase of real estate for and on behalf of the Commonwealth of Kentucky, providing for the manner, terms and conditions under which property belonging to the State may be sold, etc.

With the expression of opinion that said bills ought to pass.

Said bills were each read at length the first time and ordered to be placed on the Calendar.

A message was received from the Senate announcing that they had passed a bill which originated in this House entitled:

H. B. 5. An Act appropriating money for the 1936-1937 Special Session of the General Assembly of the Commonwealth of Kentucky and declaring an emergency to exist.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 8. An Act to repeal, amend and re-enact Section Ten (10) and Section Twelve (12), Chapter Four (4), of the Acts of the Third Extraordinary Session of the 1936 General Assembly, being entitled "An Act concerning revenue and taxation, and declaring an emergency", said sections now being codified as Sections 4281e-10 and 4281e-12 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section Ten (10) of Chapter Four (4) of the Acts of the Third Extraordinary Session of the 1936 General Assembly, being entitled "An Act concerning revenue and taxation and declaring an emergency", said section now being codified as Section 4281e-10 to Carroll's Kentucky Statutes, Baldwin's Edition of 1936, reading as follows:

"The Department is hereby authorized and directed to prescribe the forms of the stamps herein provided for. It shall have such stamps prepared for sale in such manner as it may deem proper. Such stamps shall be sold at their face value. The methods of breaking packages and containers and the methods of affixing the stamps shall be prescribed by the Department in such a way as to enforce the provisions of this measure."

Be and the same is hereby repealed, amended and re-enacted so that as amended and re-enacted it shall read as follows:

"The Department is hereby authorized and directed to prescribe the forms of the stamps herein provided for. It shall have such stamps prepared for sale in such manner as it may deem proper. Such stamps shall be sold at their face value. But the Department shall allow to each licensed wholesaler, holding a valid permit from the Department of Revenue and required by this Act and the regulations issued pursuant thereto to purchase and affix cigarette tax stamps, for each one dollar's worth of stamps purchased at their face value from the Department and actually affixed by said person, an amount of stamps equal to ten cents at their face value as compensation for the affixing of said stamps and making such reports as the Department may require. Said allowance shall be made by the Department only when purchase of stamps shall have been made in amounts equal to ten dollars ($10.00) or multiples thereof, at their face value, and when the Depart-

ment shall be satisfied that the stamps so purchased were actually used as provided by the Department and the required reports made.

Be it provided, however, that the said allowance shall be increased by fifty per cent (50%) thereof for the period of the first sixteen months following the effective date of this act; provided that the additional fifty per cent (50%) shall in no event in the aggregate paid to any given wholesale permittee exceed ten per cent (10%) of the face value of stamps purchased by said permittee prior to the effective date of this amendment.

The method of breaking packages and containers and the methods of affixing stamps shall be prescribed by the Department in such a way as to enforce the provisions of this Act.

§ 2. That Section Twelve (12) of Chapter Four (4) of the Acts of the Third Extraordinary Session of the 1936 General Assembly, being entitled "An Act concerning revenue and taxation and declaring an emergency", said section now being codified as Section 4281e-12 of Carroll's Kentucky Statutes, Baldwin's 136 Edition, reading as follows:

"Every manufacturer, wholesaler, and retailer is hereby required to preserve written records of sales made taxable by this Act, to keep invoices of commodities received by him, and to maintain other records and submit such additional reports as the Department may require for the enforcement of this Act."

Be and the same is hereby repealed, amended and re-enacted so that as amended and reenacted it shall read as follows:

Every manufacturer located in or doing business in this State is hereby required to keep written records of all shipments of cigarettes, whether or not said shipments are made from the Kentucky plants of said manufacturers, to consignees located in or doing business in Kentucky, regardless of the fact that said cigarettes may have been sold by

the shipper to a party other than the consignee or may have been shipped for the account of some other vendor, and every manufacturer shall keep such other records and submit such reports as the Department may require for the enforcement of this Act.

Whereas, a great hardship has been placed upon those persons required by the Cigarette Tax Act to affix the stamps and report the tax; and,

Whereas, the business of selling and distributing cigarettes is being driven from the State of Kentucky, and the revenue of the Commonwealth is thereby being endangered, an emergency is hereby declared to exist, and this Act shall become a law and be effective upon the fifth calendar day from the date of its passage and approval by the Governor.

Mr. Schneider offered the following amendment to said bill, viz.:

Amend H. B. 8 by inserting between lines 12 and 13, and after the word "follows" in line 12, the following language:

"Every manufacturer, wholesaler, and retailer is hereby required to preserve written records of sales made taxable by this Act, to keep invoices of commodities received by him, and to maintain other records and submit such additional reports as the Department may require for the enforcement of this Act."

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	James T. Hamilton	J. C. Nickell
Henry H. Allen	C. L. Hammons	Russell O'Neill
C. W. Anderson, Jr.	W. L. Hampton, Jr.	Mel Petry
H. T. Baker	Thomas W. Hines	A. W. Pfeiffer
W. T. Baker	Price Holbrook	J. C. Ramey
B. F. Bedford	Clyde S. Howard	Harry C. Records
Reuben J. Boling	Ira W. Hulette	L. K. Rice
Douglas Bolling	John M. Hunnicut	Wade H. Riley
Ollie J. Bowen	Ben W. Johnson	Joe E. Robinson
Wallace Brown	J. H. Jones	John C. Robinson
Dr. R. A. Byers	O. C. Jones	W. T. Rollo
Jas. C. Carter	R. T. Kirkman	A. W. Ross
V. O. Chandler	J. F. Ladd	Carl Scheben
Floyd Clark	Leslie Larrimore	Carl Schneider
Roscoe Claxon	Robert E. Lee	Dr. B. F. Shields
George S. Clay	M. T. McCarthy	P. L. Sidebottom
Roy Conway	T. B. McConnell	Chester D. Silvers
Herbert Cook	J. L. McDermott	Bruce Sloan
Harry Davis	Lloyd MacDonald	Henry Stewart
Sam Dever	W. F. McGary	Dr. H. S. Swope
George W. Dunlap	Elmer McGlothen	W. R. Tapp
Howard G. Early	John Marshall	J. J. Thomas
Garland Embry	C. S. Matherly	S. J. Wagner
Walter R. Fannin	D. T. Matlack	Joseph L. Wall
T. P. Fitzpatrick	W. H. Miller	L. R. Wells
James Garnett, Jr.	John B. Mollett	W. G. Williams
G. W. Garrett	W. E. Mull	Charles Wylie
Ferd A. Gnau	Rodes K. Myers	John Kirtley, Spkr.

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Resolved that the title thereof be as aforesaid.

Mr. Schneider moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Schneider moved that the House do now recess for fifteen minutes.

Said motion was agreed to.

And then the House recessed.

After a time the Speaker resumed the Chair and called the House to order.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled a bill entitled:

H. B. 1. An Act to provide for the payment of unemployment compensation to designated classes of persons and for the administration thereof; the declaration of a state public policy, an enumeration of benefits; etc.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker in open session and in the presence of the House affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill, duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Dickson moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, DECEMBER 30, 1936.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Garland Embry	O. C. Jones
Henry H. Allen	Walter R. Fannin	R. T. Kirkman
H. T. Baker	Chas. P. Farnsley	J. F. Ladd
W. T. Baker	T. P. Fitzpatrick	Leslie Larrimore
B. F. Bedford	H. Myer Garner	Robert E. Lee
Reuben J. Boling	James Garnett, Jr.	M. T. McCarthy
Douglas Bolling	G. W. Garrett	T. B. McConnell
Ollie J. Bowen	Ferd A. Gnau	J. L. McDermott
Wallace Brown	Eugene Gough	Lloyd MacDonald
Dr. R. A. Byers	Ben Grogan	W. F. McGary
V. O. Chandler	James T. Hamilton	Elmer McGlothen
Floyd Clark	C. L. Hammons	John Marshall
Roscoe Claxon	W. L. Hampton, Jr.	C. S. Matherly
George S. Clay	Thomas W. Hines	D. T. Matlack
Roy Conway	Price Holbrook	Duke Mayfield
Herbert Cook	Clyde S. Howard	G. S. Milam
Harry Davis	Ira W. Hulette	W. H. Miller
Sam Dever	John M. Hunnicut	John B. Mollett
Stanley S. Dickson	Ben W. Johnson	W. E. Mull
Howard G. Early	J. H. Jones	Tyler Munford

Rodes K. Myers	John C. Robinson	Dr. H. S. Swope
J. C. Nickell	W. T. Rollo	W. R. Tapp
Russell O'Neill	A. W. Ross	J. J. Thomas
Mel Petry	Carl Scheben	R. Van Bever, Jr.
A. W. Pfeiffer	Carl Schneider	Joseph L. Wall
J. C. Ramey	Ray O. Shehan	Henry Ward
Hobart Rayburn	P. L. Sidebottom	L. R. Wells
L. K. Rice	Chester D. Silvers	W. G. Williams
Wade H. Riley	Bruce Sloan	Charles Wylie
Joe E. Robinson	Henry Stewart	John Kirtley, Spkr.

Mr. Davis moved that the Journal of the proceedings of yesterday be read at length.

Said motion was disagreed to.

Mr. Gnau moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Myers moved that when the House adjourns today, it adjourn to meet again on Monday, January 4, at two o'clock P. M.

Said motion was agreed to.

The following message was received from the Governor, viz.:

WHEREAS, In the Governor's proclamation of December 23, 1936, convening the General Assembly in Extraordinary Session Item Number 15 erroneously referred to Chapter 129 of the Acts of the General Assembly of the Regular Session of 1934 instead of Chapter 24 of the Acts of the Special Session of 1934; and

Whereas, The said Chapter 24 of the Acts of the Special

Session of 1934 deals with the identical subject matter defectively dealt with in Chapter 129 of the Acts of the General Assembly of the Regular Session of 1934:

Now, Therefore, In order that the General Assembly may consider the subject matter sought to be submitted in the said Item 15, according to the power vested in me by the Constitution of Kentucky *I do issue this my proclamation* amending and restating said Item 15 in my proclamation convening the General Assembly of Kentucky in Extraordinary Session at the seat of government in Frankfort, at one o'clock P. M. on Wednesday December 23, 1936, to read as follows:

15. To repeal Chapter 24 of the Acts of the General Assembly of the Special Session of 1934.

Given under my hand this 29th day of December, 1936.

By the Governor:

A. B. CHANDLER,
Governor of Kentucky.

(Seal.)
CHAS. D. ARNETT,
Secretary of State.

Mr. Scheben offered the following resolution, viz.:

H. Res. 5. Whereas, it has been found that a large percentage of Auto Accidents are caused by drivers having defective eyesight; and,

Whereas, the National Safety Council has prepared a tentative measure to cope with this situation: Therefore,

Be it Resolved, That the Legislative Council study the proposed law prepared by the National Safety Council which would require an examination of the eyesight of drivers applying for licenses, and that the Legislative Council of Ken tucky prepare an Act to be submitted to the General Assembly regular session, 1938.

Further, That this resolution be spread on the Journal and that the Chief Clerk of the House of Representatives communicate the contents of this resolution to the Legislative Council of the Commonwealth of Kentucky.

Said resolution was adopted.

Mr. Dickson of the Committee on Enrollment, reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 5. An Act appropriating money for the 1936-1937 Special Session of the General Assembly of the Commonwealth of Kentucky and declaring an emergency to exist.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon, the Speaker in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Ward of the Committee on Cities of the Second Class

to which the same had been previously referred, reported a bill entitled:

H. B. 11. An Act to authorize cities of the second class to establish and maintain junior colleges by leaving a tax for school purposes and by charging tuition fees in support thereof, etc.

With a Committee amendment thereto.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Myers moved that a bill entitled:

H. B. 10. An Act relating to revenue and taxation and repealing Sections 4064, 4241, 4257a, 4260-2, 4260-3, 4260-4, 4260a, 4260d-3 and 4265, Kentucky Statutes, Carroll's 1930 and 1936 Editions, and repealing, amending and re-enacting Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260-1, 4261, 4262, 4263, 4019a-13, and 4267 of said Statutes; and repealing all laws in conflict with this Act to the extent of such conflict, and declaring an emergency.

Be recommitted to the Committee on Kentucky Statutes No. 1 and that said bill retain its place in the Orders of the Day.

Said motion was agreed to.

Mr. Myers moved that the Rules of this House be suspended and that the House proceed to the consideration of the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 9. An Act to repeal and re-enact Sections one, two and ten of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741x-1, 2741x-2 and 2741x-10, Kentucky Statutes, Carroll's Edition, 1936, pertaining to municipal housing and extending the privileges of said statutes to include cities of the third class as well as cities of the first and second classes, and declaring the existence of an emergency and providing for the repeal of all acts and parts of acts which may be inconsistent therewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741x-1, 2741x-2 and 2741x-10, Kentucky Statutes, Carroll's Edition, 1936, be and the same are hereby repealed and re-enacted so that as and when re-enacted said sections shall read as follows:

Section 2741X-1. *Cities Authorized to Maintain Housing Projects.*—Cities of the first class, second class and third class are hereby authorized and empowered to acquire, establish, erect, maintain and operate low cost housing projects within the corporate limits of such municipality and under the provisions of this act, for the purpose of providing adequate and sanitary living quarters for individuals or families. It is hereby declared as a matter of legislative determination that in order to promote and protect the health, safety, morals and welfare of the public it is necessary in the public interests to confer these powers upon cities; and to provide

for the creation of municipal housing commissions as hereinafter provided, and to vest in them all powers necessary or appropriate in order that they may engage in low cost housing and slum clearance projects; and that the powers herein conferred upon the cities and the municipal housing coommissions including the power to acquire property, to remove unsanitary or substandard conditions, to construct and operate housing accommodations and to borrow, expend and repay moneys for the purposes herein set forth, are public objects essential to the public interest.

Section 2741X-2. *Municipal Housing Commission.*—The mayor of any city of the first class, second class or third class, with the approval of the legislative body of the city, may appoint four persons, who, with the mayor, *ex officio,* shall constitute the Municipal Housing Commission. Each person so appointed to the said Municipal Housing Commission shall be at least twenty-five years of age and a *bona fide* resident of such municipality for not less than one year preceding such appointment. No officer or employee of said city, whether holding a paid or unpaid office, shall be eligible to hold an appointment on such commission. Such appointees shall be originally appointed for terms of four years. Upon the expiration of such term, appointment shall be made in like manner except that the terms of the four appointees shall be for one year, two years, three years and four years, respectively, and the successors of such appointees shall be appointed in like manner, each for a period of four years. Not more than two of such appointees on any Commission shall be affiliated with the same political party. Vacancies shall be filled for any unexpired term in the same manner as the original appointment. The persons appointed as provided herein shall constitute a body corporate under the name of (Insert name of city) Municipal Housing Commission, and shall have power to contract and be contracted with, to sue or be sued in such name and to adopt a seal and alter same

at pleasure. Such Commission shall elect a chairman and a vice chairman from its members, and a secretary and treasurer who need not be a member of such commission. The duties of the offices of secretary and treasurer may be performed by the same person. The members of such commission, except the mayor, shall receive such compensation as may befixed by the legislative body of the city either as a salary or as payment for meetings attended, but the maximum compensation of the chairman in any year shall not exceed two thousand dollars ($2,000.00) and of each other member shall not exced four hundred dollars ($400.00) per year. Such Commission shall fix the compensation of the secretary and treasurer or secretary-treasurer in its discretion except as hereinafter provided or as may be provided by the legislative body of the said city of the first class, second class or third class. Such Commission shall have power to establish by-laws, rules and regulations for its own government and to make and enter into all contracts or agreements necessary or incidental to the performance of the duties and the execution of its powers under this act. Such Commission may employ engineering architectural and constructural experts and inspectors and attorneys, and such employees as may be necesary in its opinion, and fix their compensation subject to the limitations hereinafter provided and/or as may be hereinafter provided by the legislative body of said city of the first class, second class or third class, all of whom shall do such work as said Commission shall direct; provided, however, that the legislative body of said city or cities of the first class, second class or third class may provide or prescribe whether or not said employees or any of them shall be required to devote their entire time to the duties as such employees of said Commission.

Section 2741X-10. *Funds for Carrying Out Purposes of this Act; Bonds; Issuance; Payment.*—Cities of the first, second and third classes are hereby authorized to provide

funds for carrying out the purposes of the Act by the issuance of revenue bonds of such cities pursuant to a resolution of the Housing Commission. Such bonds or other obligations of a Housing Commission shall not constitute an obligation of the State, city or any other governmental subdivision, agency or instrumentality thereof; but shall be payable only out of the properties, revenues and assets of the Housing Commission. Nothing contained in this Act should be construed to authorize or permit any city of the first class, second class or the third class to incur any indebtedness of any kind or nature as contemplated by the provisions of the Constitution of the Commonwealth in relation to the indebtedness of cities. Subject to the restrictions set forth in this Act, a Housing Commission may incur any indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with any project undertaken by it hereunder. A Housing Commission may issue its bonds to provide for the payment of its indebtedness from time to time in such amounts, with such maturities, upon such terms and conditions and upon such security as the Commission may deem necessary or advisable in connection with any project or projects undertaken or to be undertaken by it hereunder. Authorization of the issuance of bonds shall be made by resolution of the Housing Commission and the bonds shall be signed by the Chairman of the Commission or other agent designated by the Commission and by the mayor or presiding officer of the legislative body of the city under the city's seal attested by a finance officer of the city. A Housing Commission may issue bonds which shall be payable out of its properties and revenues generally with or without the pledge or mortgage of specific property or revenues. It may also issue bonds in such form that they shall be payable only out of the properties and revenues specifically pledged or mortgaged for their payment. A Housing Commission may in connection with the borrowing of funds or otherwise

enter into any agreements with the Federal Government, or any agency or instrumentality thereof, including specifically the Federal Emergency Administration of Public Works and the Public Works Emergency Housing Corporation, providing for supervision and control of the Housing Commission or any project and containing such other covenants, terms and conditions as the Housing Commission may deem advisable. In connection with any loan by a government, a Housing Commission is authorized to agree to limitations upon the exercise of any powers conferred upon it by this Act. Bonds issued pursuant to this Act shall have and are hereby declared to have, in the hands of *bona fide* holders, all of the qualities of negotiable instruments under the law of merchant or the Negotiable Instruments Act of the Commonwealth of Kentucky.

They shall be exempt from taxation by the Commonwealth of Kentucky and by the municipalities and political subdivisions thereof. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act and that it does not constitute an indebtedness of the city within the meaning of any constitutional provisions or limitations. In case any provisions shall be made for the redemption or prepayment of any such bonds or evidences of indebtedness before maturity, such provisions shall require that the bonds or evidences of indebtedness so to be redeemed or repaid shall be selected by lot from the whole number of such issue then outstanding. The said bonds may be issued without a vote of the voters and without any other proceedings or happenings of any other conditions or things than those proceedings, conditions and things which are specified and required by this act or by the Constitution of the Commonwealth.

On account of the immediate necessity of inaugurating slum clearance programs in certain municipalities of the third class in order to provide more healthful and sanitary condi-

tions and to permit third class cities to avail themselves of present available Federal aid an ememgency is declared to exist and this act shall become effective immediately upon its passage by the General Assembly and its approval by the Governor.

All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Mr. Howard offered the following amendment to said bill, viz.:

Amend H. B. 9, page 1, lines 8 and 9 of printed bill, by striking out the word "and" after second class and inserting in lieu thereof a "," and add the following words after third class "and fourth class".

The Speaker ruled said amendment out of order under the Governor's call for this Extraordinary Session of the General Assembly.

Mr. Howard moved that said bill be laid on the Clerk's desk.

Mr. Hammonds moved that said bill be recommitted with leave to report at any time.

Said last named motion was agreed to.

Mr. Myers moved that the Rules of this House be suspended for the purpose of offering a resolution.

Said motion was agreed to.

Thereupon Mr. Myers offered the following resolution, viz.:

H. Res. 6. Whereas, J. A. Coleman is ill and unable to

be present by reason thereof and is duly-elected member of this body and entitled to the emoluments of his office, now therefore

Be it Resolved, That the Clerk of the House issue his requisition on the Auditor of Public Accounts and that the Auditor of Public Accounts draw a warrant on the Treasurer of the Commonwealth of Kentucky, payable to Hon. J. E. Coleman for the per diem now due him and that from this day until adjournment *sine die,* the Clerk, whenever certifying House Payroll for members of the House of Representatives, shall certify for payment the per diem of J. A. Coleman.

Said resolution was adopted.

Mr. Bowen moved that the vote by which the House agreed that when they adjourn today, they adjourn to meet again on Monday, January 4, at two o'clock P. M., be reconsidered.

Said motion was agreed to.

Mr. Myers offered the following resolution, viz.:

H. Res. 7. Joint Resolution of the House and Senate for adjournment until Monday, January 4, at two o'clock P. M.

Be it Resolved by the House of Representatives and the Senate of Kentucky, That when the General Assembly adjourn today, it adjourn to reconvene on January 4, 1937, at two o'clock P. M.

Mr. Gough moved that said resolution be laid on the table.

Said motion was agreed to.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 2. An Act exempting building and loan associations organized under the laws of this State and under the laws of the United States from the payment of income tax upon the entire net income of such corporations.

H. B. 7. An Act relating to the sale and purchase of real estate for and on behalf of the Commonwealth of Kentucky providing for the manner, terms and conditions under which property belonging to the State may be sold, etc.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. Gnau moved that the Rules of this House be suspended for the purpose of allowing committees to report.

Said motion was disagreed to.

Mr. Gnau moved that when the House adjourn today it adjourn to meet again on tomorrow at nine o'clock A. M.

Said motion was agreed to.

Mr. Gnau moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, DECEMBER 31, 1936.

The House was called to order by the Hon. Ray O. Shehan, designated by The Hon. John Kirtley, Speaker of the House, as Speaker pro Tem.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

Wallace Brown	John M. Hunnicut	Carl Scheben
Roscoe Claxon	J. H. Jones	Ray O. Shehan
Herbert Cook	O. C. Jones	Dr. B. F. Shields
Harry Davis	Lloyd MacDonald	P. L. Sidebottom
Howard G. Early	W. F. McGary	W. R. Tapp
G. W. Garrett	Elmer McGlothen	S. J. Wagner
Ben Grogan	J. C. Ramey	Joseph L. Wall
Ira W. Hulette	L. K. Rice	

Mr. Davis moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

MONDAY, JANUARY 4, 1937.

The House was opened with prayer by the Reverend E. W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	C. W. Anderson, Jr.	G. M. Ballard
Henry H. Allen	W. T. Baker	B. F. Bedford

Reuben J. Boling	Price Holbrook	Wade H. Riley
Douglas Bolling	Clyde S. Howard	Joe E. Robinson
Ollie J. Bowen	Ira W. Hulette	John C. Robinson
Wallace Brown	John M. Hunnicut	W. T. Rollo
Dr. R. A. Byers	Ben W. Johnson	A. W. Ross
Jas. C. Carter	J. H. Jones	Carl Scheben
Roscoe Claxon	O. C. Jones	Carl Schneider
George S. Clay	R. T. Kirkman	Ray O. Shehan
Roy Conway	J. F. Ladd	Dr. B. F. Shields
Herbert Cook	Leslie Larrimore	P. L. Sidebottom
Harry Davis	Robert E. Lee	Chester D. Silvers
Sam Dever	M. T. McCarthy	Bruce Sloan
Stanley S. Dickson	T. B. McConnell	H. C. Steely
George W. Dunlap	J. L. McDermott	Henry Stewart
Howard G. Early	Lloyd MacDonald	Dr. H. S. Swope
Garland Embry	Elmer McGlothen	W. R. Tapp
Walter R. Fannin	C. S. Matherly	J. J. Thomas
H. Myer Garner	D. T. Matlack	R. Van Bever, Jr.
James Garnett, Jr.	John B. Mollett	S. J. Wagner
G. W. Garrett	W. E. Mull	Joseph L. Wall
Ferd A. Gnau	J. C. Nickell	Henry Ward
Eugene Gough	Russell O'Neill	L. R. Wells
James T. Hamilton	Mel Petry	Charles Wylie
C. L. Hammons	A. W. Pfeiffer	John Kirtley, Spkr.
W. L. Hampton, Jr.	J. C. Ramey	
Thomas W. Hines	L. K. Rice	

Mr. Davis moved that the reading of the Journal of Thursday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Baker moved that the privilege of the floor be extended to Mr. and Mrs. D. S. Cunningham of Shelby County.

Said motion was agreed to.

Mr. Silvers moved that the privilege of the floor be ex-

tended to Mr. and Mrs. Longbridge and Mr. B. F. Wells of Fayette County.

Said motion was agreed to.

Dr. Byers moved that the privilege of the floor be extended to Mr. Gilmore Keown of Ohio County.

Said motion was agreed to.

Ordered that an indefinite leave of absence be granted to Mr. Grogan.

Ordered that a leave of absence be granted for the day to Mr. Shehan.

Mr. Claxon offered the following resolution, viz.:

H. Res. 8. Whereas, It is an objective of the President of the United States and the Congress to establish the most widespread degree of social security and economic opportunity, and

Whereas, Sweatshops, low wages and unhealthy working conditions constitute one of the most conspicuous obstacles to the attainment of such security and opportunity, and

Whereas, A great number of industries, services and businesses are beyond the power of the Federal Government to regulate with respect to wages and working conditions, and

Whereas, In many instances the several states are the only agencies which are able to correct these conditions: Therefore,

Be it Resolved, That the House of Representatives, instruct the Legislative Council to make a study of and prepare for the 1938 Session of the General Assembly, legislation to provide for wages, maximum hours and healthful working

conditions for industries, businesses and services in Kentucky, similar to that which has been enacted in other states.

Said resolution was adopted.

Upon a call of the Counties and Legislative Districts, the following bills were introduced, ordered printed and referred as follows, viz.:

By Mr. Wagner:

H. B. 14. An Act authorizing refund of taxes paid under provisions of Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) by the Auditor of Public Accounts upon the filing of claims and providing that suits may be maintained upon the Auditor of Public Accounts' failure or refusal to issue warrants when the claims are properly filed; prescribing the venue and jurisdiction for the filing of such claims and for bringing of such suits; the manner in which they may be prosecuted, and waiving any defenses which the Commonwealth might assert on account of limitations, and on account of any failure to pay said taxes under protest, and making an appropriation therefor.

Said bill is as follows, viz.:

Whereas, The General Assembly of one thousand nine hundred thirty (1930) passed an Act which was approved by the Governor on March seventeen (17), one thousand nine hundred thirty (1930), which is compiled as Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930), imposing an excise or license tax on retail merchants and prescribing heavy penalties for the failure to report and pay the taxes therein imposed; and,

Whereas, The principal purpose of said Act was to tax chain stores; and,

Whereas, The large chain stores and a number of other large stores filed suits in the Federal Courts to enjoin and did enjoin the State from collecting said taxes; and,

Whereas, In the case of the Kroger Grocery and Baking Co., et al., v. Lewis, et al., two hundred ninety-four (294) U. S. five hundred fifty, (550), fifty-five (55) S. Ct. five hundred twenty-five (525), the Supreme Court of the United States held the aforesaid Act to be unconstitutional, and on April twenty-ninth (29th), one thousand nine hundred thirty-five (1935), overruled a petition for a rehearing filed on behalf of the Commonwealth of Kentucky in said case; and,

Whereas, By reason of such decision and of the aforesaid suits the large chain stores and other large merchants escaped entirely the payment of said tax; and,

Whereas, Before said Act was held unconstitutional a large number of merchants had paid said tax from year to year as and when due to avoid the penalties in said Act; and,

Whereas, The total amount so paid into the State Treasury for the five-year period from the effective date of the Act until same was held unconstitutional amounts in the aggregate to three hundred nine thousand, one hundred thirty-six dollars, fifty-six cents ($309,136.56); and,

Whereas, The Act under which said taxes were paid does not authorize the taxpayers to maintain suits for a refund thereof except within two years from the date said taxes were paid, and then only if paid under protest; and,

Whereas, They are justly entitled to a refund of said taxes, and the limitations imposed in said Act have barred the recovery of the taxes paid during the first three years of the operation of said Act unless waived by the General Assembly of Kentucky; and,

Whereas, If the State should fail to authorize a refund

thereof, the merchants who paid same would thereby be discriminated against in favor of the large chain stores that escaped the payment of said taxes: Now, Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any person, firm, or corporation that paid into the State Treasury of Kentucky any taxes under the provisions of Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) may file with the Auditor of Public Accounts a sworn statement as to the taxes so paid and interest thereon from the date of payment, and the said Auditor of Public Accounts may, if he deems it necessary, demand additional proof as to the validity of said claim, and if the Auditor of Public Accounts' records show the claim to be valid, he shall issue his warrant upon the State Treasurer in favor of said claimant for the amount due, and when the warrant is presented to the State Treasurer, he shall issue his check payable to the payee therein for the amount of the warrant, and both the warrant and the check shall be charged to the appropriation made by the General Assembly of Kentucky at the second special session of 1936, as provided in Section No. 55 of Chapter No. 51 of said Act, provided further that in the event the Auditor of Public Accounts fails or refuses to issue his warrant upon the State Treasurer, then in that event any person, firm, or corporation may file a suit against the Auditor of Public Accounts to recover the taxes so paid and interest thereon from the date of each payment. If the amount sought to be recovered be less than two hundred dollars ($200) the suit may be filed in the Quarterly Court of Franklin County. If the suit be for more than two hundred dollars ($200) it may be filed in the Franklin Circuit Court. The plaintiff must allege in the petition the amount of taxes paid by the plaintiff in each year, and the approximate date of payment, and may

maintain one suit for the total amount paid under said Act, together with interest thereon from the date of each payment.

§ 2. The penalties imposed by Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) being so severe, it is deemed and considered that payments of said taxes under the provisions of said Act were made under compulsion; and, whether expressly paid under protest or not, any and all defenses based upon failure to pay said taxes under protest hereby are waived.

§ 3. Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) having been held constitutional by the Court of Appeals of Kentucky in the case of Moore, et al., v. State Board of Charities and Corrections, two hundred thirty-nine (239) Ky. seven hundred twenty-nine (729), forty (40) S. W. second (2d) three hundred forty-nine (349), and also having been held constitutional and valid by a three-judge Federal Court in the case of Kroger Grocery and Baking Company, et al., v. Lewis, et al., seven (7) Fed. Sup. four hundred thirty-eight (438), decided December twenty (20), one thousand nine hundred thirty-three (1933); and later having been held unconstitutional by the Supreme Court of the United States on an appeal from the aforesaid decision, finally decided by the Supreme Court on March eleven (11) one thousand nine hundred thirty-five (1935), it is deemed by the General Assembly that the two year limitation imposed by Section ten (10) of said Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) and the limitation imposed by Section one hundred sixty-three (163), Kentucky Statutes, Carroll's one thousand nine hundred thirty (1930) edition, should be and the same are hereby waived and the limitations thereby imposed shall not be pleaded as defense and shall not be a defense to any claim or suit for a refund of the aforesaid taxes. Provided, however,

the waiver of the defenses of limitations herein provided shall only apply to claims and suits filed within six months from the effective date of this Act. If said appropriation is not sufficient, an additional amount of $50,000 is hereby appropriated so as to liquidate the entire obligation of this Commonwealth to said taxpayers.

§ 4. Since Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) has been declared unconstitutional and since in equity each person who paid taxes under the said Act should be reimbursed and since suits for each refund would be necessarily expensive both in time and in money both to the plaintiffs and the Commonwealth, the requirement in Section ten (10) of said Act that recovery may be had only by a suit against the Auditor of Public Accounts is hereby explicitly waived.

§ 5. If judgment be rendered for plaintiff in any suit brought under the provisions of this Act, the Auditor of Public Accounts upon presentation to him of an attested copy thereof shall issue his warrant upon the State Treasurer in favor of the plaintiff for the amount of the judgment and when the warrant is presented to the State Treasurer he shall issue his check payable to the payee therein for the amount of the warrant, and both the warrant and the check shall be charged to the appropriation made by the General Assembly of Kentucky at the second special session of 1936, as provided in Section No. 55, Chapter No. 51, of said Act.

To Committee on Judiciary.

By Mr. Gnau:

H. B. 15. An Act to provide for the registration of trademarks, stamps, seals, designs, devices, patterns, advertisements, forms of advertisement, letters, numbers, ornaments,

engravings, word, words, wordings, phrases, slogans, names or any signs whatever, labels, prints, wrappers, brands, imprints, shapes, terms, descriptions, emblems, buttons, rosettes, badges, ribbons, insignia, descriptions or designations, or any combination of two or more of the aforesaid subjects, and to protect and secure the rights, property and interests of the persons, associations, unions, organizations, corporations, partnerships or firms and individuals, who file and register in accordance with this act, and to provide for the assignment of such registrations, and to provide for the disposition of revenue, and to provide procedure for enforcement and penalties for violations of this act and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Short Title of Act.

This act shall be known and may be cited as the "Kentucky Trade-Mark Act."

§ 2. Definitions.

(a) The word "trade-mark" as used herein includes every description of word, letter, device, emblem, stamp, ornament, imprint, brand, printed ticket, label, or wrapper, affixed by any mechanic, manufacturer, druggist, merchant, or tradesman, to denote any goods to have been imported, manufactured, produced, compounded, sold, or offered or intended for sale by him.

(b) The word "goods" as used herein includes every kind of goods, wares, merchandise, compound or preparation, works of art, painter's symbol or signature, which may be lawfully kept or offered for sale.

(c) The word "person" as used herein includes individ-

uals, associations, unions, organizations, corporations, trusts, partnerships and firms.

§ 3. Registration; How to Obtain the Benefits of this Act.

Every person who uses or intends to use a trade-mark, stamp, seal, design, device, pattern, advertisement, form of advertisement, letter, number, ornament, engraving, word, words, wording, phrase, slogan, name, or any sign whatever, label, print, wrapper, brand, imprint, shape, term, description, emblem, button, rosette, badge, ribbon, insignia, description or designation, or any combination of two or more of the aforesaid subjects to denote any goods imported, manufactured, produced, compounded, sold or offered for sale in this State and is desirous of obtaining the protection, security and benefits provided herein, must file for record in the office of the Secretary of State a statement setting forth:

(a) The name and address of the person applying for such registration;

(b) The class of merchandise and a particular description of the goods comprised in each class to which such trade-mark has been or is intended to be appropriated and the mode in which it is or is to be applied and used, or in the case of any other subject of registration under this act the general nature of the applicant's business and use or proposed use of such subject of registration;

(c) The date when such trade-mark or other subject of registration under this act was first used or adopted or is intended to be used and that no other person has the right to such use, either in the identical form, or having such near resemblance thereto as may be calculated to deceive or that would be liable to be mistaken therefor;

(d) Any claims or reservations for similar trade-marks or other subjects.

A facsimile, copy or counterpart, of such trade-mark or other subject of registration under this act, shall be incor-

porated in or annexed to such statement, and a duplicate shall be filed therewith. Such statement shall be signed by the applicant in whose behalf it is filed, or by his or its agent or duly authorized officer, and the person so signing shall make oath or affirm that all the statements therein contained are true to the best of his knowledgs and belief.

(e) There is excepted as to what may be registered corporation names, personal names, words commonly used by all businesses in advertisements, certain commercial symbols and emblems of universal and common use and State or National emblems. No person shall register unto himself a mark in the event same is being used by a foreign corporation. All application blanks for registration must be furnished by the Secretary of State, and such applications as are filed with him shall be sworn to before a notary public and two copies shall be filed with the Secretary of State and the application shall state, in addition to such other information as may be required, how long the mark has been used.

§ 4. Filing Fee; Receipt.

There shall be paid to the Secretary of State for the filing of such statement or application a fee of five ($5.00) dollars, and the Secretary of State shall deliver to the person filing such statement or application for registration, or causing the same to be filed, a receipt showing the date of such filing or registration, and there shall accompany such statement or application a general description of the trade-mark or other subject sought to be registered.

§ 5. Publication of Notice.

After filing such statement with the Secretary of State the applicant shall, at his expense, cause to be published a brief statement setting forth that the applicant has filed with the Secretary of State application for registration of the said names or marks so used or intended to be used, and setting out the date of such filing and describing briefly the trade-mark or other subject sought to be registered and the use or

intended use thereof, and that the applicant, giving his name and address, claims the exclusive right to such trade-mark or other subject sought to be registered, and the use or intended use, thereof, and that any person having or claiming to have any right, title, or interest in or to such thereof, shall have sixty days from the date of the first publication, which date shall be given in each notice, within which to file in the office of the Secretary of State a statement of his claim or interest in or right to such trade-mark or other subject, or the use thereof, and that if no such statement be filed within such period of sixty days the trade-mark or other subject described in such publication notice, and the right to exclusive use thereof, will be registered as sole and exclusive property of such applicant, and that all other persons shall be thereafter barred of and from any right, title, or interest in or to such trade-mark or other subject, or the use thereof.

The statement above required to be published shall be published once a week for three successive weeks in the newspaper of the county, wherein the applicant's principal office is situated which has the largest circulation; or if there is no newspaper in such county, then such publication shall be made in the newspaper of an adjoining county, which newspaper has the largest circulation.

§ 6. Registration; Fee; certificate.

If at the expiration of such period of sixty days from the date of the first publication of notice of the filing of any such statement and of the claim of ownership of the trade-mark or other subject described therein no statement of any claim of interest in or right to such trade-mark or other subject or the use thereof by any other person shall have been filed with the Secretary of State the trade-mark or other subject sought to be registered shall upon the filing of proof of such publication and the payment of a registration and certificate fee of forty dollars ($40.00) be registered by the Secretary of State in the name of such applicant and the Secretary of State shall

forthwith deliver to such applicant a duly attested certificate of such registration with a facsimile of the trade-mark or other subject of registration incorporated in such certificate.

§ 7. Certificate of Registration and Copies as Evidence.

Any certificate of registration issued by the Secretary of State under the provisions of this act or a copy thereof duly certified by the Secretary of State shall be admissible in evidence and competent and sufficient proof of the registration of such trade-mark or other subject of registration in any action or judicial proceeding in any of the courts of this State, and of the due compliance with the provisions of this act.

§ 8. Effect of Registration.

Registration as provided in this act shall bar every person other than the registrant of any right, title, or interest in or to such registered trade-mark or other subject or the use thereof and shall vest in the registrant the sole and exclusive right to such trade-mark or other subject and the exclusive use thereof. From and after such registration as herein provided no person other than the registrant shall be allowed or permitted in any civil proceeding at law or in equity or in any penal or criminal proceeding to set up any claim of ownership or right to the use of such trade-mark or other subject so registered.

§ 9. Contest of Right to Trade-Mark.

Any person claiming any right, title, or interest in or to any trade-mark or other subject, or the use thereof, described in any statement filed by any applicant in the office of the Secretary of State shall, within sixty days after the date of the first publication of the notice of filing of such applicant, file in the office of the Secretary of State a statement of his claim in or to such trade-mark or other subject, or the use thereof, setting forth the facts upon which he bases his claim, which statement shall be duly verified by the affidavit of such claimant or his agent or duly authorized officer. Any person failing or neglecting to file such statement within the time

herein provided shall be deemed to have waived and abandoned any right, title, or interest which he had or claimed to have in or to such trade-mark or other subject, or the right to the use thereof.

§ 10. Determination of Contest by Secretary of State.

If at the expiration of sixty days from the date of the first publication of notice there shall have been filed with the Secretary of State any statement or statements setting up claims in and to the trade-mark or other subject sought to be registered adverse to the applicant, the Secretary of State shall determine the right to the registration of the trade-mark or other subject as between the parties thereto. Upon payment of the registration and certificate fee and upon proof of publication if such registration is to be in the name of the original applicant. the Secretary of State shall register such trade-mark or other subject in the name of the person determined by him to be entitled to such registration, and shall deliver to such registrant a duly attested certificate of registration in manner and form as provided by section six, which certificate shall have the effect prescribed by section eight of this act.

§ 11. Appeal to the Franklin Circuit Court from Determination of Contest by Secretary of State.

Any party to a contest of the right to the registration of a trade-mark or other subject may within ten days from the date of the determination of the Secretary of State appeal to the Franklin Circuit Court, which court shall have power to hear such appeal and confirm or reverse the determination of the Secretary of State. Such appeal shall be taken by notice filed with the Secretary of State, who shall forthwith transmit to the Clerk of the Franklin Circuit Court certified copies of all papers and data presented to him in connection with such contest, and the Clerk of said court shall file the same in his office as a part of the records of the Court. If the said court shall confirm the determination of the Secretary of State, an

order to that effect shall be entered and a certified copy thereof shall be filed with the Secretary of State. If the court shall reverse the decision of the Secretary of State, it shall order the cancellation of the registration theretofore made and the certificate theretofore issued by the Secretary of State, and shall direct the Secretary of State to issue a certificate of registration to the person, or persons, named in the order. Either party to the action in the Franklin Circuit Court may appeal within ten days from the order of said court to the Court of Appeals, and when a certificate of registration shall have been revoked by the court the certificate fee theretofore paid by the applicant shall be returned to him; and the person in whose name the registration is directed to be made by the court shall pay to the Secretary of State the registration and certificate fee required by this act, and the Secretary of State shall thereupon issue to him a certificate of registration as provided by Section six, which certificate shall have the effect prescribed by Section eight of this act.

§ 12. Registrations Prohibited; Refusal of Secretary of State to Register; Appeal.

The Secretary of State shall not register or permit to be registered any trade-mark or other subject of registration under this act that is in the identical form or wording of any other trade-mark or other subject of registration theretofore registered by or on behalf of any other person with the Secretary of State, or that bears any such near resemblance thereto as may be calculated to deceive or that would be liable to be mistaken therefor, and the Secretary of State may, if he deems it proper, register or refuse to register any trade-mark or other subject of registration under the povisions of this act. The refusal of the Secretary of State to register a trade-mark or other subject of registration shall be reviewable by the Franklin Circuit Court and the Court of Appeals in the manner provided by Section eleven of this act, and the said courts shall have authority to make such orders in the prem-

ises as they shall deem proper. Such appeal shall be taken within ten days after the refusal of a registration by the Secretary of State.

§ 13. Registration under Prior Acts.

On payment of the certificate fee prescribed in Section six, any person who has heretofore registered in the office of the Secretary of State any trade-mark or other subject of registration under any law in effect at the time of such registration, which trade-mark or other subject might be registered under this act, shall be entitled to a certificate from the Secretary of State covering such registration and shall receive the benefits of this act the same as if such registration had been made originally hereunder.

§ 14. Present and Intended Use; Time for Registration; Failure to Register; Effect.

Every person who has heretofore or is now using any trade-mark or other subject which may be registered under this act and who has not registered the same with the Secretary of State under any law in effect prior to the passage of this act must file the same for registry under this act within six months after this act takes effect; and every person who adopts and uses any trade-mark or other subject which may be registered under this act shall file application for the registry thereof within six months after date of its first adoption or use. Failure to file any such trade-mark or other subject for registry within a period of six months after this act takes effect or within a period of six months after its first adoption or use, if adopted and used after this act takes effect, shall be deemed a waiver or abandonment of the claim of right to the exclusive use thereof and such trade-mark or other subject shall be deemed public property within this State and may be appropriated and registered by any person who may apply for the registration thereof under the terms of this act. Registration after the expiration of such period of six months from the time this act takes effect or after the expiration of

six months from the first adoption and use of such trade-mark or other subject of registration, if after this act takes effect, may be made by the person originally entitled thereto only by application to the Franklin Circuit Court, showing why such registration was not made within the time provided therefor by this section and that no other person has appropriated and registered such trade-mark or other subject. Upon the allowance of such application by the Franklin Circuit Court the same procedure shall be had, including publication of notice, payment of fees and issuance of certificate, as is required in other cases.

§ 15. Assignability; Death of Registrant.

Every trade-mark or other right secured under this act shall be a right that shall be assignable in law, and such assignment may be recorded and entered in the office of the Secretary of State upon the payment of a fee of twenty-five dollars therefor; but all such assignments shall be good only against the assignor, his assigns and successors in interest. Upon the death of an individual registrant of a trade-mark or other subject of registration, the rights secured by this act shall devolve upon the personal representative of the deceased, unless otherwise validly disposed of by him.

§ 16. Licensing by Registrant.

Any person who has registered any trade-mark or other subject of registration in accordance with the provisions of this act may license and authorize any person, on such terms as may be agreed upon between the parties, to use such trade-mark or subject so registered, and such license, consent or authority may be revoked and terminated at any time upon written notice to the licensee, if provided by the terms of the licensing agreement, and thereafter any use of such registered trade-mark or other subject of registration by such licensee or any one under his authority shall be unlawful and shall subject the user to the penalties provided therefor by this act.

§ 17. Injunction; Jurisdiction and Power of Courts of Chancery.

Any person who has registered a trade-mark or other subject of registration under the provisions of this act, or his assignee of record, may apply to any court of equity for an injunction to restrain the manufacture, use, display or sale of any counterpart or imitation thereof, either in its identical form or in a form that bears any such near resemblance thereto as may be calculated to deceive or that would be liable to be mistaken therefor. The court is empowered and required to enjoin such manufacture, use, display or sale as the court shall deem just and reasonable and shall require the defendant or defendants to pay to the registrant or his assignee any and all profits derived from such wrongful manufacture, use, display or sale; and the court shall also order that all such counterparts or imitations in the possession or under the control of any defendant in such proceeding be delivered to an officer of the court or to the complainant to be destroyed. The law and practice regulating proceedings in equity shall in so far as applicable govern all applications under this section.

§ 18. Violation of Act; Punishment.

Any person who:

(a) falsely makes or counterfeits a trade-mark or other subject of registration which has been registered in accordance with the provisions of this act; or

(b) Affixes to any article of merchandise, a false or counterfeit trade-mark or other subject of registration knowing the same to be false or counterfeit, or the genuine trade-mark, or an imitation of the trade-mark or other subject of another which has been registered in accordance with the provisions of this act, without the latter's consent; or

(c) Knowingly sells, or keeps or offers for sale, an article of merchandise, to which is affixed a false or counterfeit trade-mark or other subject of registration, or the genuine

trade-mark or other subject, or an imitation of the trade-mark or other subject of another which has been registered in accordance with the provisions of this act, without the latter's consent; or

(d) Has in his possession a counterfeit trade-mark or other subject of registration, knowing it to be counterfeit, or a die, plate, brand, or other thing for the purpose of falsely making or counterfeiting a trade-mark or other subject which has been registered in accordance with the provision of this act; or

(e) Makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, an article of merchandise with such a trade-mark or other subject of registration which has been registered in accordance with the provisions of this act as to appear to indicate the quantity, quality, character, place of manufacture, or production, or persons manufacturing, packing, bottling, boxing, or producing the article, but not indicating it truly; or

(f) Knowingly sells, or keeps or offers for sale an article of merchandise, to which is affixed any trade-mark or other subject of registration, either in the identical form thereof or that bears any such near resemblance thereto as may be calculated to deceive, or that would be liable to be mistaken therefor, which has been registered by another in compliance with this act and which registration has not been revoked or canceled by order of any court of competent jurisdiction in this State shall be guilty of a misdemeanor and punishable for the first offense by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment, for not more than one year, or by both such fine and imprisonment, and for each subsequent offense by imprisonment for not less than thirty days or more than one year, or by both such imprisonment and a fine of not less than five hundred dollars or more than one thousand dollars.

§ 19. Construction of Act.

This Act shall be construed by all courts at all times in all suits, actions and proceedings, in the most liberal manner for effecting the objects and purposes thereof and protecting the claims, rights, interests, use, and property of every person in and to any trade-mark or other subject of registration registered pursuant to the provisions of this act.

§ 20. Partial Unconstitutionality of Act.

If any part or provision of this act shall be declared to be unconstitutional or inoperative, in whole or in part, by any court of competent jurisdiction, the act shall notwithstanding such determination be enforced and effectuated to the extent that it is not unconstitutional or inoperative and no such determination shall be deemed to invalidate or make ineffectual the remaining parts or provisions of the act.

§ 21. Disposition of Revenue.

All revenue collected under the terms of Sections 4, 6, and 15 of this act shall be covered through the Department of Finance into the State Treasury of the Commonwealth and credited to the Governor's General Emergency Fund.

§ 22. Repealer.

All other acts and parts of acts inconsistent with this act be and the same are hereby repealed to the extent of the conflict.

§ 23. Emergency.

Inasmuch as the existing law for the protection of trademarks, trade names, and such similar property rights is entirely inadequate and affords no protection to a large number of persons, an emergency is hereby declared to exist and this Act shall become a law and be effective upon its approval by the Governor.

To Committee on Trade and Commerce.

By Mr. Nickell.

H. B. 16. An Act repealing Section 2237-1, Carroll's Kentucky Statutes, 1936 Revision, being Chapter 24 of the Acts of Extraordinary Session of the General Assembly of 1934, relating to the consolidation of the office of jailer with that of sheriff in each county of the State.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 2237-1, Carroll's Kentucky Statutes (1936 Revision), being Chapter 24, of the Acts of the Extraordinary Session of the General Assembly of 1934, consolidating the office of jailer with that of sheriff in each County of the State, be and it is hereby repealed.

To Committee on Penal and Charitable Institutions.

By Mr. H. H. Allen:

H. B. 17. An Act repealing Chapter 24 of the Acts of the 1934 Special Session of the General Assembly, being Section 2237-1, Kentucky Statutes, Baldwin's 1934 Kentucky Statute Service, consolidating the office of Jailer with that of Sheriff in each county of the State and restoring to said Jailer and Sheriff, respectively, the duties now vested in them.

Said bill is as follows:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 24 of the Acts of the 1934 Special Session of the General Assembly of Kentucky, providing for the consolidation of the office of Jailer with that of Sheriff in each county of the State, being Section 2237-1, Kentucky Statutes,

Baldwin's 1934 Kentucky Statute Service, be and the same is hereby repealed and the Jailer and Sheriff in each of the counties of this Commonwealth are hereby restored to duties now by law vested in them, respectively.

Chapter 24 of the Acts of the 1934 Special Session of the General Assembly of Kentucky, being Section 2237-1, Kentucky Statutes Baldwin's 1934 Kentucky Statute Service, hereby is expressly repealed.

To Committee on Charitable and Penal Institutions.

The Speaker announced the personnel of the following Committee to be the same as during the 1936 Regular Session, viz.:

JUDICIARY

Charles S. Matherly, *Chairman*

Ollie Bowen	Sam Milam
James Garnett, Jr.	Charles Wylie
Chester Silvers	George Clay

TRADE AND COMMERCE

H. H. Allen, *Chairman*

H. H. Allen	O. C. Jones
Paul Sidebottom	J. J. Thomas
J. C. Nickell	Bruce Sloan
H. T. Baker	Lloyd MacDonald
Carl Schneider	

The House took up for consideration from the Orders of the Day, a bill entitled;

H. B. 2. An Act exempting building and loan associations organized under the laws of this State and under the laws of the United States from the payment of income tax upon the entire net income of such corporations.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That building and load associations organized under the laws of this State are hereby exempt from the payment of income tax upon the entire net income derived from business done, property located or sources in this State, for the year 1936 and thereafter.

All laws or parts of laws in conflict herewith are hereby repealed of such conflict.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed witth, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Sam Dever	Price Holbrook
C. W. Anderson, Jr.	Stanley S. Dickson	Clyde S. Howard
W. T. Baker	George W. Dunlap	Ira W. Hulette
B. F. Bedford	Howard G. Early	John M. Hunnicut
Reuben J. Boling	Garland Embry	Ben W. Johnson
Douglas Bolling	Walter R. Fannin	J. H. Jones
Ollie J. Bowen	H. Myer Garner	O. C. Jones
Wallace Brown	G. W. Garrett	R. T. Kirkman
Dr. R. A. Byers	James Garnett, Jr.	J. F. Ladd
Jas. C. Carter	Ferd A. Gnau	Leslie Larrimore
Roscoe Claxon	Eugene Gough	Robert E. Lee
George S. Clay	James T. Hamilton	T. B. McConnell
Roy Conway	C. L. Hammons	J. L. McDermott
Herbert Cook	W. L. Hampton, Jr.	Lloyd MacDonald
Harry Davis	Thomas W. Hines	Elmer McGlothen

C. S. Matherly	Joe E. Robinson	H. C. Steely
D. T. Matlack	John C. Robinson	Henry Stewart
John B. Mollett	W. T. Rollo	Dr. H. S. Swope
W. E. Mull	A. W. Ross	J. J. Thomas
Mel Petry	Carl Scheben	S. J. Wagner
A. W. Pfeiffer	Carl Schneider	Joseph L. Wall
J. C. Ramey	P. L. Sidebottom	L. R. Wells
L. K. Rice	Chester D. Silvers	Charles Wylie
Wade H. Riley	Bruce Sloan	—71

There voted in the negative—

M. T. McCarthy Dr. B. F. Shields —2

Resolved that the title thereof be as aforesaid.

Mr. Hunnicutt moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Dr. Shields moved that the House do now recess for one hour for the purpose of holding open hearings before the Standing Committees of this House.

Mr. Gnau announced his intention of making a motion after recess to take from the hands of the Committee on Charitable and Penal Institutions, a bill entitled:

H. B. 6. An Act repealing Chapter 24 of the Acts of the 1934 Special Session of the General Assembly, being Section 2237-1 Kentucky Statutes, Baldwin's 1934 Kentucky Statute Service, concolidating the office of Jailer with that of Sheriff, etc.

Mr. Hunnicutt moved that the session of to-day be extended indefinitely.

Said motion was agreed to.

The motion as made by Dr. Shields was then agreed to.

And then the House recessed.

After a time the Speaker resumed the Chair, and called the House to order.

The following message was received from the Governor, viz.:

Whereas, in the Governor's proclamation of December 23, 1936, convening the General Assembly in extraordinary session, Item 20 referred to the passage of an Act amending Chapter 113, Acts of the General Assembly of 1934, applicable to cities of the third class; and

Whereas, the emergency which has arisen concerning cities of the third class is also applicable to cities of the fourth class;

Now, Therefore, in order that the General Assembly may consider the subject matter sought to be submitted in Item 20 in connection with cities of the fourth class, according to the power vested in me by the Constitution of Kentucky, I do issue this my proclamation amending and restraining the said Item 20 in my proclamation convening the General Assembly of Kentucky in extraordinary session at the seat of government in Frankfort, Kentucky, at one o'clock P. M. on Wednesday, December 23, 1936, to read as follows:

Item 20. To pass an Act amending Chapter 113, Acts of the General Assembly, 1934 Regular Session, to make the same applicable to cities of the third and fourth class.

Given under my hand this the 31st day of December, 1936.

By the Governor:

[SEAL]
CHAS. D. ARNETT,
Secretary of State.

A. B. CHANDLER,
Governor of Kentucky.

Mr. Garnett moved that the House do now adjourn.

Said motion was agreed to

And then the House adjourned.

TUESDAY, JANUARY 5, 1937.

The House was opened with prayer by the Reverend E. W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Ferd A. Gnau	Elmer McGlothen
C. W. Anderson, Jr.	Eugene Gough	John Marshall
H. T. Baker	Ben Grogan	C. S. Matherly
W. T. Baker	James T. Hamilton	D. T. Matlack
G. M. Ballard	C. L. Hammons	John B. Mollett
B. F. Bedford	W. L. Hampton, Jr.	W. E. Mull
Reuben J. Boling	Thomas W. Hines	Rodes K. Myers
Douglas Bolling	Price Holbrook	J. C. Nickell
Wallace Brown	Clyde S. Howard	Russell O'Neill
Dr. R. A. Byers	Ira W. Hulette	Mel Petry
Jas. C. Carter	John M. Hunnicut	A. W. Pfeiffer
V. O. Chandler	Ben W. Johnson	J. C. Ramey
Floyd Clark	J. H. Jones	Harry C. Records
Roscoe Claxon	O. C. Jones	L. K. Rice
George S. Clay	R. T. Kirkman	Wade H. Riley
Roy Conway	J. F. Ladd	Joe E. Robinson
Herbert Cook	Leslie Larrimore	John C. Robinson
Harry Davis	Robert E. Lee	W. T. Rollo
George W. Dunlap	M. T. McCarthy	A. W. Ross
Howard G. Early	T. B. McConnell	Carl Scheben
T. P. Fitzpatrick	J. L. McDermott	Ray O. Shehan
G. W. Garrett	Lloyd MacDonald	Dr. B. F. Shields
James Garnett, Jr.	W. F. McGary	P. L. Sidebottom

Chester D. Silvers	W. R. Tapp	L. R. Wells
Bruce Sloan	J. J. Thomas	Charles Wylie
H. C. Steely	S. J. Wagner	John Kirtley, Spkr.
Henry Stewart	Joseph L. Wall	
Dr. H. S. Swope	Henry Ward	

Mr. McCarthy moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in the Senate, entitled:

S. B. 3. An Act to authorize cities of the first class to construct law school buildings for municipal universities where the ground for such buildings has been conveyed to the city free of cost, etc.

Ordered that said bill be printed and referred to Committee on Cities of the First Class.

The following message was received from the Governor, viz.:

WHEREAS, it has become necessary to provide for the expenditure at the discretion of the fiscal courts of the counties of the surplus gross tax revenue collected and paid to said counties under the terms of Section 14, Chapter 25, Acts of the Special Session of the General Assembly of 1934; and

WHEREAS, the Governor has by proclamation of December 23, 1936, convened the General Assembly in extraordinary session;

NOW, THEREFORE, in order that the General Assembly may consider a measure providing for the expenditure at the discretion of the fiscal courts of the counties of the surplus

gross receipts tax revenues collected and paid to said counties under the terms of Section 14, Chapter 25, Acts of the Special Session of the General Assembly 1934, according to the power vested in me by the Constitution of Kentucky I do issue this my proclamation amending the proclamation convening the General Assembly of Kentucky in extraordinary session at the seat of government in Frankfort, Kentucky, at one o'clock P. M., on Wednesday, December 29, 1936, by adding the following item thereto:

22. To pass an act providing for the expenditure at the discretion of the fiscal courts of the various counties of the surplus gross tax revenues collected and paid to them under terms of Section 14, Chapter 25 of the Acts of the Special Session of the General Assembly of 1924.

Given under my hand this 5th day of January, 1937.

BY THE GOVERNOR

A. B. CHANDLER
Governor of Kentucky

(Seal)

CHAS. D. ARNETT
Secretary of State

Mr. Hunnicutt offered the following resolution, viz.:

Whereas, recent claims have been made through press accounts by certain and sundry persons that they are the image and likeness of the late beloved Will Rogers, and

Whereas, the said late beloved Will Rogers and the memory of him still lingers in the hearts of all the people of America and

Whereas, no such claim to this distinction has been made by any resident of the Commonwealth of Kentucky, and

Whereas, the residents of the Commonwealth of Kentucky have always under any and all circumstances produced outstanding gentlemen to meet the equal of any and all

achievements and attainments of any man or men throughout the nation and civilized world, and

Whereas, the Republican party at the present is suffering great scarcity of distinction, now therefore

Be It Resolved, That one, Ray O. Sheehan, Republican member of the Kentucky House of Representatives from Harlan County, be advanced as best and foremost living likeness and image of the said late Will Rogers in the whole nation, and

Be It Further Resolved, That the Speaker of the aforesaid Honorable Body, name, nominate, and appoint a committee of three from the membership of the said body with instructions to cause to have produced a photograph of the said Ray O. Sheehan, and the same to be published in all leading newspapers throughout the length and breadth of the nation, together with the declaration that the said gentleman is the nearest likeness and image of the said late beloved Will Rogers in all America, and

Be It Further Resolved, that inasmuch as the said Ray O. Sheehan is a member of the Republican party, that one, John D. Hamilton, Chairman of the Republican National Committee, be informed of this action and claim, in order that this distinction may be placed beside that of the states of Maine and Vermont.

Said resolution was adopted.

Mr. Gnau moved that the privilege of the floor be extended to Mr. Joseph Levine.

Said motion was agreed to.

Mr. Pfeiffer moved that the privilege of the floor be extended to Mr. John B. Klefot.

Said motion was agreed to.

Mr. Wells moved that the privilege of the floor be extended to Hon. W. Y. Handy.

Said motion was agreed to.

Mr. Baker moved that the privilege of the floor be extended to Mr. D. S. Cunningham and Mr. A. C. McMaken.

Said motion was agreed to.

Mr. Hines moved that the privilege of the floor be extended to Mr. Hubert Meredith and Louis Frazier.

Said motion was agreed to.

Mr. Ramey moved that the privilege of the floor be extended to Mr. L. R. Hughes of Lincoln County and Mr. Dave Thompson of Boyle County.

Said motion was agreed to.

Mr. Scheben offered the following resolution, viz.:

H. Res. 9. Resolution requesting Legislative Council to study county and municipal reorganization.

Said resolution is as follows, viz.:

H. Res. 9. WHEREAS, more than three-fifths of the tax burden of the Citizens of the Commonwealth of Kentucky is being exacted by local units of Government, and whereas many of the counties and municipalities are unable to live within their income and deficits are steadily mounting which in some instances will ultimately result in bankruptcy unless the State Government comes to their assistance, and whereas County consolidation, the merging of adjacent communities and the establishment of civil service in all the non-elective

positions with the aforesaid mentioned counties and municipalities would greatly relieve this distressing condition, therefore

Be It Resolved, That the Legislative Council of the Commonwealth of Kentucky is hereby requested to consider the preparation of legislation upon the following subjects, to be submitted to the General Assembly 1938:

A. An Act which would authorize a study of the possibilities of county and community consolidation. Adequate funds should be provided for this study.

B. An Act to provide for civil service within the counties and municipalities in the State of Kentucky, only elective officials being excluded therefrom.

C. County and municipal reorganizations as may be proposed by public spirited organizations such as "The Kentucky Municipal League and The Kentucky Tax Reduction League" or other kindred organizations.

That the Secretary of the Kentucky Legislative Council communicate with some public spirited organizations within the Commonwealth requesting their assistance in the preparation of the above mentioned legislation.

That this Resolution be spread upon the House Journal and a copy be sent to the Legislative Council of Kentucky.

Said resolution was adopted.

Mr. McCarthy offered the following resolution, viz.:

H. Res. 10. Resolution requesting Legislative Council to study provisions of Old Age Pension.

Said resolution is as follows, viz.:

H. R. 10. Whereas, a number of aged people of the State are depriving themselves of the benefits of old age

assistance because they are fearful that they may lose their small homesteads and,

Whereas, there is no provision in the present law providing for the retention of homesteads by the wife where the husband dies after he has received old age assistance and,

Whereas, under the present law the wife may be deprived of her homestead and have no place to live, and

Whereas, there is no exemption at all under the present law. All property owned by persons accepting old age assistance are subject to the liens created in favor of the State of Kentucky, and the Federal Government, and foreclosures may be had when only a small amount has been paid out in old age assistance, and,

Whereas, it appears that some exceptions should be allowed under the law and especially some provision made for the wives of persons accepting old age assistance so that they may not be forced out of their homes, now

Be it resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein,

1. That the Legislative Council study the feasibility of amending the old age assistance law so as to provide certain exemptions and to provide certain exemptions to wives of persons accepting old age assistance so that they may not be left homeless.

2. That said Legislative Council after making such study shall report to the Regular Session of the Legislature of 1938 and make recommendations as to its findings.

3. That the Director of Old Age Assistance be required to furnish the Legislative Council all data deemed necessary in making said study.

4. The Clerk of the House is hereby directed to spread this resolution on his records and to furnish an attested copy of this resolution to Hon. Keen Johnson, chairman of the Legislative Council and a copy to Dr. A. Y. Lloyd, director of

Public Assistance and a third copy shall be sent to the Social Security Board at Washington, D. C.

Said resolution was adopted.

Mr. Gnau offered the following resolution, viz.:

H. Res. 11. WHEREAS, the present employees and officers of the General Assembly, have rendered faithful service in both day and night session of the General Assembly, meeting in special session, during the year 1936-1937;

WHEREAS, the General Assembly, in view of the services rendered, deems the compensation allowed by law as provided for in Senate Bill No. 314 of the Acts of the General Assembly of 1936, inadequate, now therefore

Said resolution is as follows, viz.:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

(1) That there is hereby appropriated from the Legislative Session Fund as additional compensation, for the employees and officers of the Senate and the House of Representatives, to that compensation provided in Senate Bill No. 314 of the Acts of the General Assembly of 1936, the sum of $8,659.00.

(2) That the Chief Clerk of the Senate shall requisition and the Commissioner of Finance shall approve, and the Auditor of Public Accounts shall draw a warrant, for the sum of $4,446.00 on the Treasury of the Commonwealth of Kentucky in favor of the Chief Clerk of the Senate. Such Chief Clerk shall forthwith distribute to the employees and officers of the Senate such funds on the basis of the number of days that such employees and officers served during the special session of the General Assembly in the year 1936-1937, the rate per day to be computed by said Chief Clerk and the presiding of-

ficer of the Senate on a pro rata basis of the amounts authorized to be paid them by Senate Bill No. 314 of the Acts of the General Assembly of 1936.

(3) The Chief Clerk of the House of Representatives shall requisition and the Commissioner of Finance shall approve, and the Auditor of Public Accounts shall draw a warrant, for the sum of $4,213.00 on the Treasury of the Commonwealth of Kentucky in favor of the Chief Clerk of the House of Representatives. Such Chief Clerk shall forthwith distribute to the employees and officers of the House of Representatives such funds on the basis of the number of days that such employees and officers served during the special session of the General Assembly in the year of 1936-1937, the rate per day to be computed by said Chief Clerk and the presiding officer of the House of Representatives on a pro rata basis of the amounts authorized to be paid them by Senate Bill No. 314 of the Acts of the General Assembly of 1936.

(4) All Acts or parts of Acts in conflict herewith to the extent of such conflict are hereby repealed.

(5) Whereas, the General Assembly will within a short time adjourn and the employees and officers will depart to various sections of the State, an emergency is hereby declared to exist, and this resolution shall be effective from and after its passage and approval by the Governor of the Commonwealth of Kentucky.

Ordered that said resolution be printed and referred.

The committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Fitzpatrick of the Committee on Revenue and Taxation No. 2.

H. B. 4. An Act repealing Chapter 3 of the Acts of the

third special session (Revenue Session) of the General Assembly of 1936, known as the Luxury Tax, etc.

With the expression of opinion that said bill ought to pass.

With a Minority Report thereto.

Said report of the Minority is as follows, viz.:

The Committee on Revenue and Taxation No. 2 to which the same had been referred, has had under consideration House Bill No. 4 and report same with the expression of opinion that same should pass with amendment No. 1, attached hereto.

George Clay
Claude L. Hammons

Mr. Clay moved that the report of the Minority be substituted for the report of the committee.

Mr. Myers moved that said bill and reports of the committee and the Minority, be laid on the Clerk's desk, with the privilege of taking up at any time.

Mr. Gnau moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

The motion as made by Mr. Myers was then agreed to.

The yeas and nays being required thereon by Messrs. Hammonds and Myers, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Ferd A. Gnau	Joe E. Robinson
C. W. Anderson, Jr.	W. L. Hampton, Jr.	John C. Robinson
H. T. Baker	Thomas W. Hines	W. T. Rollo
W. T. Baker	Clyde S. Howard	A. W. Ross
G. M. Ballard	Ira W. Hulette	Carl Scheben
B. F. Bedford	J. F. Ladd	Dr. B. F. Shields
Douglas Bolling	T. B. McConnell	Chester D. Silvers
Wallace Brown	Elmer McGlothen	Bruce Sloan
V. O. Chandler	W. E. Mull	Dr. H. S. Swope
Floyd Clark	Rodes K. Myers	W. R. Tapp
Herbert Cook	J. C. Nickell	J. J. Thomas
Sam Dever	J. C. Ramey	Joseph L. Wall
Stanley S. Dickson	L. K. Rice	L. R. Wells
George W. Dunlap	Wade H. Riley	Charles Wylie

—42

There voted in the negative—

Reuben J. Boling	Eugene Gough	D. T. Matlack
Dr. R. A. Byers	Ben Grogan	John B. Mollett
Jas. C. Carter	James T. Hamilton	Russell O'Neill
Roscoe Claxon	C. L. Hammons	Mel Petry
George S. Clay	Price Holbrook	A. W. Pfeiffer
Roy Conway	John M. Hunnicut	Ray O. Shehan
Howard G. Early	Ben W. Johnson	P. L. Sidebottom
Garland Embry	J. H. Jones	H. C. Steely
Walter R. Fannin	R. T. Kirkman	Henry Stewart
T. P. Fitzpatrick	Leslie Larrimore	S. J. Wagner
G. W. Garrett	Robert E. Lee	Henry Ward
James Garnett, Jr.	W. F. McGary	

—35

Mr. McGlothen moved that the House do now recess until one-thirty o'clock P. M.

Said motion was agreed to.

Then the House recessed.

The hour of one-thirty o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

The House took up for consideration from the Calendar, a bill entitled:

H. B. 11. An Act to authorize cities of the Second Class to establish and maintain Junior Colleges by levying a tax for school purposes, etc.

Ordered that said bill be read the second time.

The constitutional provision as to the second reading of said bill at length being dispensed with, said bill was read the second time by its title only.

Ordered that said bill be placed in the Orders of the Day.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 7. An Act relating to the sale and purchase of real estate in the Commonwealth, etc.

Mr. Garnett moved that said bill be recommitted to the committee on State properties and that same retain its place in the Orders of the Day.

Said motion was agreed to.

Mr. Hunnicutt moved that the session of today be extended indefinitely.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing committees to report.

Said motion was agreed to.

Thereupon Mr. Tapp of the Committee on Court of Appeals, to which the same had been previously referred, reported a bill entitled:

H. B. 13. An Act to protect trade-mark owners, distributors and the public against injurious and uneconomic practices in the sale and distribution of articles of standard quality under a trade-mark, etc.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Gnau moved that when the House adjourned today, it adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

Dr. Shields moved that the House do now recess until four o'clock P. M.

Said motion was disagreed to.

Mr. Hammons moved that the House do now recess until four-fifteen o'clock P. M.

Said motion was disagreed to.

Mr. Hammons moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, JANUARY 6, 1937.

The House was opened with prayer by the Reverend E. W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	James T. Hamilton	J. C. Ramey
C. W. Anderson, Jr.	C. L. Hammons	Hobart Rayburn
H. T. Baker	W. L. Hampton, Jr.	Harry C. Records
W. T. Baker	Thomas W. Hines	L. K. Rice
G. M. Ballard	Price Holbrook	Wade H. Riley
B. F. Bedford	Clyde S. Howard	Joe E. Robinson
Reuben J. Boling	Ira W. Hulette	John C. Robinson
Douglas Bolling	John M. Hunnicut	W. T. Rollo
Ollie J. Bowen	Ben W. Johnson	A. W. Ross
Wallace Brown	J. H. Jones	Carl Scheben
Dr. R. A. Byers	R. T. Kirkman	Carl Schneider
Jas. C. Carter	J. F. Ladd	Ray O. Shehan
V. O. Chandler	Leslie Larrimore	Dr. B. F. Shields
Floyd Clark	Robert E. Lee	P. L. Sidebottom
George S. Clay	M. T. McCarthy	Chester D. Silvers
Roy Conway	T. B. McConnell	Bruce Sloan
Herbert Cook	Lloyd MacDonald	H. C. Steely
Harry Davis	W. F. McGary	Henry Stewart
Sam Dever	Elmer McGlothen	Dr. H. S. Swope
Stanley S. Dickson	John Marshall	W. R. Tapp
Howard G. Early	Duke Mayfield	J. J. Thomas
Garland Embry	John B. Mollett	R. Van Bever, Jr.
Walter R. Fannin	W. E. Mull	S. J. Wagner
T. P. Fitzpatrick	Tyler Munford	Joseph L. Wall
H. Myer Garner	Rodes K. Myers	Henry Ward
G. W. Garrett	J. C. Nickell	W. G. Williams
James Garnett, Jr.	Russell O'Neill	John Kirtley, Spkr.
Ferd A. Gnau	Mel Petry	
Eugene Gough	A. W. Pfeiffer	

Mr. Gnau moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Dr. Shields moved that the session of to-day be extended indefinitely.

Said motion was agreed to.

Mr. Gnau moved that the Rules of this House be suspended and that a bill entitled:

H. B. 16. An Act repealing Section 2237-1, Carroll's Kentucky Statutes (1936 Revision) being Chapter 24 of the Acts of Extrordinary Session of the General Assembly of 1934, relating to the consolidation of the office of jailer with that of sheriff in each County of the State.

Be taken from the hands of the Committee on Charitable and Penal Institutions and advanced to a reading.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Gnau and Hammonds, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Howard G. Early	Clyde S. Howard
C. W. Anderson, Jr.	Garland Embry	Ira W. Hulette
H. T. Baker	Walter R. Fannin	O. C. Jones
G. M. Ballard	T. P. Fitzpatrick	R. T. Kirkman
Reuben J. Boling	H. Myer Garner	J. F. Ladd
Dr. R. A. Byers	G. W. Garrett	Leslie Larrimore
Jas. C. Carter	Ferd A. Gnau	T. B. McConnell
V. O. Chandler	Ben Grogan	Lloyd MacDonald
Floyd Clark	James T. Hamilton	W. F. McGary
Roy Conway	C. L. Hammons	Elmer McGlothen
Herbert Cook	Thomas W. Hines	John B. Mollett
Sam Dever	Price Holbrook	W. E. Mull

Rodes K. Myers	L. K. Rice	Henry Stewart
J. C. Nickell	Wade H. Riley	Dr. H. S. Swope
Russell O'Neill	W. T. Rollo	W. R. Tapp
Mel Petry	Ray O. Shehan	R. Van Bever, Jr.
A. W. Pfeiffer	Chester D. Silvers	W. G. Williams
Harry C. Records	Bruce Sloan	—53

Those who voted in the negative were—

W. T. Baker	Ben W. Johnson	Dr. B. F. Shields
B. F. Bedford	J. H. Jones	P. L. Sidebottom
Douglas Bolling	M. T. McCarthy	H. C. Steely
Ollie J. Bowen	John Marshall	J. J. Thomas
Wallace Brown	D. T. Matlack	S. J. Wagner
Roscoe Claxon	Duke Mayfield	Joseph L. Wall
James Garnett, Jr.	J. C. Ramey	Henry Ward
Eugene Gough	Joe E. Robinson	Charles Wylie
W. L. Hampton, Jr.	John C. Robinson	—26

Said bill was then read the first time at length and ordered to be placed on the Calendar.

The Speaker announced that he had referred a resolution which was introduced on yesterday, as follows:

H. R. 11. To Committee on Appropriations No. 1.

A message was received from the Senate, announcing that they had passed bills which originated in that body entitled:

S. B. 2. An Act relating to revenue and taxation and repealing Section 4064, etc.

S. B. 7. An Act repealing Chapter 3 of the Acts of the Third Special Session (Revenue Session) known as the Luxury Tax, etc.

Ordered that said bills be printed and referred to Committee on Kentucky Statutes No. 1.

Mr. Garnett moved that the Rules of this House be suspended and that the House do now take up from the Clerk's desk a bill entitled:

H. B. 4. An Act repealing Chapter 3 of the Acts of the Third Special Session (Revenue Session) of the General Assembly of 1936, known as the Luxury Tax, etc.

With Committee and Minority Reports thereto.

(For Reports see House Journal of Yesterday.)

Mr. Gnau moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to Order.

Mr. Schneider moved that the Rules of this House be suspended for the purpose of allowing committees to report.

Said motion was agreed to.

Thereupon Mr. Schneider of the Committee on Cities of the First Class to which the same had been previously referred, reported a bill entitled:

S. B. 3. An Act to authorize cities of the first class to construct law school buildings for municipal universities

where the ground for such buildings has been conveyed to the city free of cost, etc.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

By Mr. Gough of the Committee on Cities of the Third Class to which the same had been recommitted, reported a bill entitled:

H. B. 9. An Act to repeal and re-enact Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, etc.

With Committee Amendments thereto.

Ordered that said bill take its place in the Orders of the Day.

Mr. Gnau moved that when the House adjourn today, it adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

Mr. Munford moved that the rules of this House be suspended for the purpose of introducing a resolution.

Said motion was agreed to.

Mr. Munford moved that the Rules of this House be suspended for the purpose of introducing a resolution.

Said motion was agreed to.

Thereupon Mr. Munford offered the following resolution, viz.:

Be it Resolvde by the House of Representatives of the Commonwealth of Kentucky:

WHEREAS, The Governor of the Commonwealth has announced that he will shortly issue an amended or supplemental proclamation asking this special session of the General Assembly to consider an additional subject not previously included in the call for this session, to wit: the appropriation of additional sums of money for the operation and maintenance of the state penal and eleemosynary instituitons; and,

Whereas, there is now a vacancy in the office of Representative in Congress in the Second Kentucky District, resulting from the untimely death of the Hon. Glover H. Cary, a sterling Democrat and honored citizen and servant of Kentucky; and,

Whereas, it will be necessary for this vacancy to be filled at a special election to be called by the Governor of the Commonwealth; and,

Whereas, the Democratic Executive Committee of the Second Congressional District, which is composed of the Democratic county chairmen of the various and respective counties in said district, is now authorized under the rules of the Democratic Party to determine the manner of nomination to said vacancy; and.

Whereas, it is commonly reported that the said district committee, or a majority of the members of said committee, plan and intend to deny the electors of the Second Congressional District the right and opportunity to make said nomination in a free and open primary election; and,

Whereas, any method of nomination other than a free and open primary is in direct conflict with the spirit of the primary election law enacted by this General Assembly and in conflict with and repugnant to the policies and pledges of this state administration; and,

Whereas, the present primary law of the Commonwealth does not provide for the emergency that has arisen and now exists in the Second District; and,

Whereas, when the Governor of the Commonwealth issues his intended supplemental or amended call for this session, he will have the opportunity to permit this General Assembly to enact legislation correcting the omission in the present primary law, meeting the emergency in the Second District, all without any additional expense whatever to the taxpayers of Kentucky: Now, Therefore,

Be it Resolved, That this House respectfully invites and requests the Governor of the Commonwealth, Hon. A. B. Chandler, when he issues his supplemental and amended call for this special session of the legislature, to include therein the subject of enacting legislation which would extend the present compulsory primary law to include a compulsory and mandatory primary election for the making of nominations to vacancies in all offices to which nominations are required to be made by primary election.

All in keeping with the platform, policies and pledges of the Democratic party in Kentucky.

Said resolution was agreed to.

The yeas and nays being taken thereon, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Wallace Brown	Sam Dever
C. W. Anderson, Jr.	Dr. R. A. Byers	Stanley S. Dickson
H. T. Baker	Jas. C. Carter	Howard G. Early
W. T. Baker	V. O. Chandler	Garland Embry
G. M. Ballard	Floyd Clark	Walter R. Fannin
B. F. Bedford	Roscoe Claxon	T. P. Fitzpatrick
Reuben J. Boling	George S. Clay	H. Myer Garner
Douglas Bolling	Herbert Cook	G. W. Garrett
Ollie J. Bowen	Harry Davis	James Garnett, Jr.

Ferd A. Gnau	W. F. McGary	Carl Scheben
Eugene Gough	Elmer McGlothen	Carl Schneider
Ben Grogan	John Marshall	Ray O. Shehan
C. L. Hammons	D. T. Matlack	P. L. Sidebottom
W. L. Hampton, Jr.	Duke Mayfield	H. C. Steely
Thomas W. Hines	John B. Mollett	Henry Stewart
Price Holbrook	Tyler Munford	Dr. H. S. Swope
Clyde S. Howard	J. C. Nickell	W. R. Tapp
John M. Hunnicut	Russell O'Neill	J. J. Thomas
J. H. Jones	Mel Petry	R. Van Bever, Jr.
O. C. Jones	A. W. Pfeiffer	S. J. Wagner
R. T. Kirkman	Hobart Rayburn	Joseph L. Wall
J. F. Ladd	Harry C. Records	Henry Ward
Robert E. Lee	L. K. Rice	L. R. Wells
M. T. McCarthy	Wade H. Riley	W. G. Williams
Lloyd MacDonald	W. T. Rollo	Charles Wylie

—75

There voted in the negative—

Dr. B. F. Shields —1

Mr. Munford moved that the vote by which said resolution was adopted be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the orders of the Day, a bill entitled:

H. B. 9. An Act to repeal and re-enact Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, etc.

With Committee amendments thereto.

An Act to repeal and re-enact Sections one, two and ten of Chapter 113 of the Acts of the General Assembly of

1934, being Sections 2741X-1, 2741X-2 and 2741X-10, Kentucky Statutes, Carroll's Edition, 1936, pertaining to municipal housing and extending the privileges of said statutes to include cities of the third class as well as cities of the first and second classes, and declaring the existence of an emergency and providing for the repeal of all acts and parts of acts which may be inconsistent therewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741X-1, 2741X-2 and 2741X-10, Kentucky Statutes, Carroll's Edition, 1936, be and the same are hereby repealed and re-enacted so that as and when re-enacted said sections shall read as follows:

Section 2741X-1. CITIES AUTHORIZED TO MAINTAIN HOUSING PROJECTS.—Cities of the first class, second class and third class are hereby authorized and empowered to acquire, establish, erect, maintain and operate low cost housing project within the corporate limits of such municipality and under the provisions of this act, for the purpose of providing adequate and sanitary living quarters for individuals or families. It is hereby declared as a matter of legislative determination that in order to promote and protect the health, safety, morals and welfare of the public it is nesessary in the public interest to confer these powers upon cities; and to provide for the creation of municipal housing commissions as hereinafter provided, and to vest in them all powers necessary or appropriate in order that they may engage in low cost housing and slum clearance projects; and that the powers herein conferred upon the cities and the municipal housing commissions including the power to acquire property, to remove unsanitary or substandard conditions, to construct and operate housing accommodations and to borrow, expend

and repay moneys for the purposes herein set forth, are public objects essential to the public interest.

Section 2741X-2. MUNICIPAL HOUSING COMMISSION.—The mayor of any city of the first class, second class or third class, with the approval of the legislative body of the city, may appoint four persons, who, with the mayor, ex officio, shall constitute the municipal Housing Commission. Each person so appointed to the said Municipal Housing Commission shall be at least twenty-five years of age and a *bona fide* resident of such municipality for not less than one year preceding such appointment. No officer or employee of said city, whether holding a paid or unpaid office, shall be eligible to hold an appointment on such commission. Such appointees shall be originally appointed for terms of four years. Upon the expiration of such term, appointment shall be made in like manner except that the terms of the four appointees shall be for one year, two years, three years and four years, respectively, and the successors of such appointees shall be appointed in like manner, each for a period of four years. Not more than two of such appointees on any Commission shall be affiliated with the same political party. Vacancies shall be filled for any unexpired term in the same manner as the original appointment. The persons appointed as provided herein shall constitute a body corporate under the name of (Insert name of city) Municipal Housing Commission, and shall have power to contract and be contracted with, to sue or be sued in such name and to adopt a seal and alter same at pleasure. Such Commission shall elect a chairman and a vice chairman from its members, and a secretary and treasurer who need not be a member of such commission. The duties of the offices of secretary and treasurer may be performed by the same person. The members of such commission, except the mayor, shall receive such compensation as may be fixed by the legislative body of the city either as a salary or as payment for meetings attended, but the maximum

compensation of the chairman in any year shall not exceed two thousand dollars ($2,000.00) and of each other member shall not exceed four hundred dollars ($400.00) per year. Such Commission shall fix the compensation of the secretary and treasurer or secretary-treasurer in its discretion except as hereinafter provided or as may be provided by the legislative body of the said city of the first class, second class or third class. Such Commission shall have power to establish by-laws, rules and regulations for its own government and to make and enter into all contracts or agreements necessary or incidental to the performance of the duties and the execution of its powers under this act. Such Commission may employ engineering architectural and constructural experts and inspectors and attorneys, and such employees as may be necessary in its opinion, and fix their compensation subject to the limitations hereinafter provided and/or as may be hereinafter provided by the legislative body of said city of the first class, second class or third class, all of whom shall do such work as said Commission shall direct; provided, however, that the legislative body of said city or cities of the first class, second class or third class may provide or prescribe whether or not said employees or any of them shall be required to devote their entire time to the duties as such employees of said Commission.

Section 2741X-10. Funds for Carrying Out Purposes of This Act; Bonds; Issuance; Payments.—Cities of the first, second and third classes are hereby authorized to provide funds for carrying out the purposes of the Act by the issuance of revenue bonds of such cities pursuant to a resolution of the Housing Commission. Such bonds or other obligations of a Housing Commission shall not constitute an obligation of the State, city or any other governmental subdivision, agency or instrumentality thereof; but shall be payable only out of the properties, revenues and assets of the Housing Commission. Nothing contained in this Act should be con-

strued to authorize or permit any city of the first class, second class or the third class to incur any indebtedness of any kind or nature as contemplated by the provisions of the Constitution of the Commonwealth in relation to the indebtedness of cities. Subject to the restrictions set forth in this Act, a Housing Commission may incur any indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with any project undertaken by it hereunder. A Housing Commission may issue its bonds to provide for the payment of its indebtedness from time to time in such amounts, with such maturities, upon such terms and conditions and upon such security as the Commission may deem necessary or advisable in connection with any project or projects undertaken, or to be undertaken, by it hereunder. Authorization for the issuance of bonds shall be made by resolution of the Housing Commission and the bonds shall be signed by the Chairman of the Commission or other agent designated by the Commission and by the mayor or presiding officer of the legislative body of the city under the city's seal attested by a finance officer of the city. A Housing Commission may issue bonds which shall be payable out of its properties and revenues generally with or without the pledge or mortgage of specific property or revenues. It may also issue bonds in such form that they shall be payable only out of the properties and revenues specifically pledged or mortgaged for their payment. A Housing Commsision may in connection with the borrowing of funds or otherwise enter into any agreements with the Federal Government, or any agency or instrumentality thereof, including specifically the Federal Emergency Administration of Public Works and the Public Works Emergency Housing Corporation, providing for supervision and control of the Housing Commission or any project and containing such other covenants, terms and conditions as the Housing Commission may deem advisable. In connection

with any loan by a government, a Housing Commission is authorized to agree to limitations upon the exercise of any powers conferred upon it by this Act. Bonds issued pursuant to this Act shall have and are hereby declared to have, in the hands of *bona fide* holders, all of the qualities of negotiable instruments under the law of merchant or the negotiable instruments Act of the Commonwealth of Kentucky.

They shall be exempt from taxation by the Commonwealth of Kentucky and by the municipalities and political subdivisions thereof. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Act and that it does not constitute an indebtedness of the city within the meaning of any constitutional provisions of limitations. In case any provisions shall be made for the redemption or prepayment of any such bonds or evidences of indebtedness before maturity, such provisions shall require that the bonds or evidences of indebtedness so to be redeemed or prepaid shall be selected by lot from the whole number of such issue then outstanding. The said bonds may be issued without a vote of the voters and without any other proceedings or happenings of any other conditions or things than those proceedings, conditions and things which are specified and required by this act or by the constitution of the Commonwealth.

On account of the immediate necessity of inaugurating slum clearance programs in certain municipalities of the third class in order to provide more healthful and sanitary conditions and to permit third class cities to avail themselves of present available Federal aid an emergency is declared to exist and this act shall become effective immediately upon its passage by the General Assembly and its approval by the Governor.

All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Said amendments as offered by the Committee are as follows, viz.:

1. Amend H. B. 9, page 1, lines 7 and 8 of the printed bill, by striking out the word "and" after second class and inserting in lieu thereof a "," and add the following words after third class "and fourth class."

2. Amend H. B. 9, page 2, line 25, of the printed bill, by striking out the word "or" after second class and inserting in lieu thereof a "," and after third class add the words "or fourth class."

3. Amend H. B. 9, page 3, line 58 of the printed bill, by striking out the word "or" after second class and inserting in lieu therefor a "," and after third class strike out the "." and insert in lieu therefor a "," and add the following words "or fourth class."

4. Amend H. B. 9, page 3, line 67 of the printed bill, by striking out the word "or" after second class and inserting in lieu therefor a "," after third class strike out "," and inserting in lieu therefor "or fourth class."

5. Amend H. B. 9, page 4, line 69 of the printed bill, by striking out the word "or" after second class and inserting in lieu therefor a "," after third class add the wording "or fourth class".

6. Amend H. B. No. 9, page 4, line 75 of the printed bill, by striking out the word "and" after second and inserting in lieu therefor a "," and after the word third add the words "and fourth class".

7. Amend H. B. 9, page 4, line 8 of the printed bill by striking out the words "or the" after second class and insert-

ing in lieu thereof a "," and after third class add the words "or fourth class".

8. Amend H. B. 9, by adding on page 6 after the word third in line 134, the words "and fourth" and by striking the word "class" out of said line and adding the word "classes" and by adding on page 6 after the word third in line 135 the words "and fourth".

9. Amend H. B. 9, on page 6, line 139 immediately following the period after the word "Governor" by adding the following language thereto: "It is hereby declared to have been the Legislative intent to enact this bill for third class cities alone in the event it should be adjudged that the amendments including fourth class cities should be for any reason unconstitutional, illegal or unlawful and that the Legislature would have enacted the said Act in regard to third class cities irrespective of fourth class cities and the same is hereby declared the legislative intent that the Act so far as it affects third class cities is to be deemed to have been enacted separately from fourth class cities irrespective of fourth class cities, and the provisions of the act herein to apply to third class cities irrespective of fourth class cities, and the benefits of the bill for each of the two classes of cities, although jointly included in the bill by way of amendment, are separately enacted, and any part of this act that may be declared unconstitutional, shall not affect the other parts thereof".

Said amendments were each and severally agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, and the same being

engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constituton, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	G. W. Garrett	Mel Petry
C. W. Anderson, Jr.	Ferd A. Gnau	A. W. Pfeiffer
H. T. Baker	Eugene Gough	J. C. Ramey
W. T. Baker	Ben Grogan	Hobart Rayburn
G. M. Ballard	James T. Hamilton	L. K. Rice
B. F. Bedford	C. L. Hammons	Wade H. Riley
Reuben J. Boling	W. L. Hampton, Jr.	Joe E. Robinson
Douglas Bolling	Thomas W. Hines	John C. Robinson
Ollie J. Bowen	Price Holbrook	W. T. Rollo
Wallace Brown	Clyde S. Howard	A. W. Ross
Dr. R. A. Byers	Ira W. Hulette	Carl Scheben
Jas. C. Carter	John M. Hunnicut	Carl Schneider
V. O. Chandler	J. H. Jones	Ray O. Shehan
Floyd Clark	O. C. Jones	Dr. B. F. Shields
Roscoe Claxon	R. T. Kirkman	P. L. Sidebottom
George S. Clay	J. F. Ladd	Bruce Sloan
Roy Conway	Robert E. Lee	Henry Stewart
Herbert Cook	T. B. McConnell	Dr. H. S. Swope
Harry Davis	Lloyd MacDonald	W. R. Tapp
Sam Dever	W. F. McGary	J. J. Thomas
Stanley S. Dickson	Elmer McGlothen	R. Van Bever, Jr.
Howard G. Early	John Marshall	Joseph L. Wall
Garland Embry	D. T. Matlack	L. R. Wells
Walter R. Fannin	Duke Mayfield	W. G. Williams
T. P. Fitzpatrick	John B. Mollett	Charles Wylie
H. Myer Garner	J. C. Nickell	
James Garnett, Jr.	Russell O'Neill	—79

Mr. Howard offered the following amendment to the title of said bill, viz.:

Amend the title of H. B. 9 by inserting the words "and

fourth" after the word third so that said title after amendment shall read as follows:

"An Act to repeal and re-enact Sections one, two and ten of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741x-1, 2741x-2 and 2741x-10, Kentucky Statutes, Carroll's Edition, 1936, pertaining to municipal housing and extending the privileges of said statutes to include cities of the third and fourth class, as well as cities of the first and second classes, and declaring the existence of an emergency and providing for the repeal of all acts and parts of acts which may be inconsistent therewith."

Said amendment was agreed to.

Mr. Brown offered the following amendment to the title of said bill, viz.:

Amend title to H. B. 9 by adding at the end of the title the following: This Bill shall be known as the Hulette-Miller Bill.

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Howard moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in that body, entitled:

S. B. 18. An Act to amend and re-enact Sections 4883, 4887, 4893, 4932, 4933, 4934 and 4957, of Carroll's Kentucky Statutes, 1930 Edition, etc.

Ordered that said bill be printed and referred to Committee on Kentucky Statutes No. 2.

Dr. Shields moved that the Rules of this House be suspended for the purpose of allowing committees to report.

Said motion was agreed to

Thereupon Mr. John C. Robinson of the Committee on Agriculture No. 1, to which the same had been referred, reported a bill entitled:

H. B. 12. An Act to provide for the stabilization of the milk industry in the State of Kentucky; creating a State Milk Control Board, etc.

With an amendment thereto by way of Substitute therefor.

Without an expression of opinion.

Mr. Hammons moved that said report be laid on the table.

Said motion was disagreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

G. M. Ballard	Ferd A. Gnau	John B. Mollett
Dr. R. A. Byers	Jas. T. Hamilton	Carl Schneider
Jas. C. Carter	C. L. Hammons	Ray O. Shehan
Walter R. Fannin	R. T. Kirkman	H. C. Steely
H. Myer Garner	Robert E. Lee	Henry Stewart
James Garnett, Jr.	Elmer McGlothen	—17

Those who voted in the negative were—

H. T. Baker	W. L. Hampton, Jr.	L. K. Rice
W. T. Baker	Thomas W. Hines	Joe E. Robinson
Douglas Bolling	Clyde S. Howard	John C. Robinson
Ollie J. Bowen	Ira W. Hulette	W. T. Rollo
Wallace Brown	John M. Hunnicut	A. W. Ross
Floyd Clark	J. F. Ladd	Dr. B. F. Shields
Roscoe Claxon	M. T. McCarthy	P. L. Sidebottom
George S. Clay	T. B. McConnell	Dr. H. S. Swope
Roy Conway	W. F. McGary	W. R. Tapp
Herbert Cook	John Marshall	J. J. Thomas
Sam Dever	D. T. Matlack	R. Van Bever, Jr.
Stanley S. Dickson	Duke Mayfield	Joseph L. Wall
Howard G. Early	J. C. Nickell	Henry Ward
Eugene Gough	Russell O'Neill	L. R. Wells
Ben Grogan	A. W. Pfeiffer	W. G. Williams

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Thereupon said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Van Bever moved that the privilege of the floor be extended to the Hon. Robert Humphries.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 11. An Act to authorize cities of the second class to establish and maintain junior colleces by levying a tax for school purposes.

With amendment thereto as proposed by the Committee.

Said bill is as follows, viz.:

H. B. 11. An Act to authorize cities of the Second Class

to establish and maintain Junior Colleges by levying a tax for school purposes and by charging tuition fees in support thereof under the management and control of the Board of Education of such cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Boards of Education of cities of the second class are hereby authorized to establish or to acquire by purchase, gift or lease, or by lawful conveyance, municipal Junior Colleges for the purpose of promoting public education as defined in this act; and for the support and maintenance thereof the Board of Education of such city may request and the general council or other legislative body of such city shall then annually cause to be levied and collected a tax of not less than five (5) nor more than seven (7) cents on each One Hundred Dollars ($100) worth of property subject to the taxation for city purposes.

§ 2. A municipal junior college within the meaning of this act is a college established or supported in whole or in part by funds raised by municipal taxation and controlled and administered by the Board of Education of such city as a part of the public school system and affording instruction in arts, sciences, and professions and conferring such certificates of attainments as may be authorized by other like or similar institutions of learning above high school grade or standing.

§ 3. Such levy of taxes shall be made at the same time and in the same manner as other levies for public school purposes, and the amount so levied shall be placed to the credit of the Board of Education fund upon completion of the assessment of property for taxation, and paid as collected, subject to such discounts or penalties as is allowed on other city taxes, by the Treasurer of the city to the Treasurer of the Board of Education for the purpose of establishing, acquiring, maintaining, and operating said municipal junior college. The taxes authorized by this act to be levied shall be con-

strued to be school taxes and to be levied for school purposes and shall be in addition to all other municipal taxes authorized and allowed by law to be used for municipal purposes and shall be in addition to all other taxes authorized and allowed by law to be levied for school purposes.

§ 4. The Board of Education of any second-class city that may establish or acquire a municipal junior college under the terms of this act may, for the purpose of supplementing the tax provided in this act, charge each pupil attending the municipal junior college a tuition fee not to exceed One Hundred Dollars ($100) per annum. The tuition fee shall be collected by the Treasurer of the Board of Education and shall be placed to the credit of the Board of Education College Fund, and shall be used for maintaining and operating the municipal junior college.

§ 5. A municipal junior college shall be entitled to support under this act only when its principal work is the maintenance of courses of instruction in advance of the instruction maintained in high schools under the control of the Board of Education.

§ 6. The Board of Education of any second-class city may set apart or appropriate any site, or school building, or part of a school building, and grounds, not especially needed for general school purposes, for the use of said municipal junior colleges.

§ 7. An annual report and an audit of receipts and disbursements of the Junior College Fund shall be made by the Board of Education of the city.

Said amendment as proposed by the Committee, is as follows, viz.:

Amend H. B. 11 after Section 7 by adding Section 8, as follows:

"§ 8. Nothing in this act shall be construed to affect

cities that have established, and are now operating such colleges other than by Boards of Education".

Said amendment was agreed to.

Mr. Hunnicutt offered the following amendment to said bill, viz.:

Amend H. B. 11 by inserting the words "the Commonwealth" after the word "of" in the enacting clause thereof.

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Roscoe Claxon	James T. Hamilton
H. T. Baker	George S. Clay	C. L. Hammons
W. T. Baker	Roy Conway	W. L. Hampton, Jr.
G. M. Ballard	Herbert Cook	Price Holbrook
B. F. Bedford	Stanley S. Dickson	Clyde S. Howard
Reuben J. Boling	Garland Embry	Ira W. Hulette
Douglas Bolling	Walter R. Fannin	John M. Hunnicut
Ollie J. Bowen	T. P. Fitzpatrick	J. H. Jones
Wallace Brown	H. Myer Garner	O. C. Jones
Dr. R. A. Byers	G. W. Garrett	R. T. Kirkman
Jas. C. Carter	James Garnett, Jr.	J. F. Ladd
V. O. Chandler	Eugene Gough	Robert E. Lee

M. T. McCarthy	L. K. Rice	Henry Stewart
T. B. McConnell	Wade H. Riley	Dr. H. S. Swope
Elmer McGlothen	Joe E. Robinson	W. R. Tapp
John B. Mollett	W. T. Rollo	R. Van Bever, Jr.
J. C. Nickell	A. W. Ross	S. J. Wagner
Russell O'Neill	Carl Scheben	Joseph L. Wall
Mel Petry	Ray O. Shehan	Henry Ward
A. W. Pfeiffer	Dr. B. F. Shields	L. R. Wells
J. C. Ramey	P. L. Sidebottom	W. G. Williams
Hobart Rayburn	H. C. Steely	Charles Wylie

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Those who voted in the negative were—

Ben Grogan J. J. Thomas —2

Mr. Hunnicutt offered the following amendment to the title of said bill, viz.:

Amend title to H. B. 11 by striking out the word "leaving" and substituting therefor the word "Levying" and also by adding to the title "This Act shall be known as the H. S. Swope Act".

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Swope moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Tapp moved that the Rules of this House be suspended for the purpose of introducing a resolution.

Mr. Mollett moved that said motion be amended to include the introduction of bills.

Said amendment was agreed to.

Said motion was then agreed to, as amended.

Thereupon the following bills and resolution were introduced, viz.:

By Mr. Tapp:

H. Res. 12. Resolution for the benefit of Ben Haskney, Kaley Barker, Powell Thomas, John H. Twyman, Thomas Moon, Ada O'Nan, Hilton King and George Combs, state employees engaged to keep the State Capitol clean.

Said resolution is as follows, viz.:

WHEREAS, The above named employes have had their work materially increased during the session of the present Assembly of the Commonwealth of Kentucky and have worked overtime to keep the State Capitol clean for said session.

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That said Ben Haskney, Kaley Barker, Powell Thomas, John H. Twyman, Thomas Moon, Ada O'Nan, Hilton King and George Combs, be each allowed the sum of one dollar per day for each day of the present session of this General Assembly, which allowance shall be in addition to what they now receive for their services as above set out. All of said amounts to be paid by the Treasurer on warrants drawn on him by the Auditor of Public Accounts out of any funds not otherwise appropriated.

By Mr. Mollett:

H. Res. 13. Resolution requesting Hon. A. B. Chandler, Governor of the Commonwealth of Kentucky to amend the

call for the Special Session of the General Assembly which was convened at Frankfort, Kentucky, on Wednesday, December 23, 1936, and to include in said call by way of amendment the subject of relief for the needy in the Commonwealth of Kentucky so that the General Assembly may act upon said question at this Special Session of the General Assembly.

Said resolution is as follows, viz.:

WHEREAS, There is no appropriation or fund now available to be used for the care, support and maintenance of the needy of the Commonwealth of Kentucky; and,

Whereas, there is a considerable amount of distress in this Commonwealth and there are a large number of persons unemployed and are now in need of relief in order to obtain the necessities of life; and,

Whereas, this is an emergency and legislation should be immediately enacted so as to provide an appropriation and funds to be available for the relief of the needy: Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the Hon. A. B. Chandler, Governor of the Commonwealth of Kentucky, amend the call for the special session of the General Assembly which convened on December 23, 1936, so that when amended said call will include legislation for relief for the needy in the Commonwealth of Kentucky and will permit the Legislature to make an appropriation for this purpose.

Be it Further Resolved, That a copy of this resolution, when passed and concurred in by the Senate, be immediately dispatched to the Governor of the Commonwealth of Kentucky.

By Mr. Wells:

H. B. 18. An Act to provide for the supervision and regulation of the production, sale and marketing and distribution

of tobacco; to create a tobacco commission and provide for local committeemen and other agencies and employees and to define and to provide for their functions, duties and powers; to provide for the appointment, compensation, costs and expenses of said commission and of committeemen agencies and employees thereof; to provide for the raising of funds for the administration of this Act and to provide for the disposition of the revenue hereunder; to provide a fund to compensate tobacco producers for crop failures and losses from fire; to impose penalties for violation of this Act; and to provide for the establishment of a compact or compacts between this State and certain other States for the purpose of uniformly regulating and controlling the production of, and commerce in, tobacco in this State and each of such States.

Said bill is as follows, viz.:

Whereas the production and distribution of tobacco is an industry upon which, to a large extent, the prosperity and well-being of the people of the State depend; and the well-being of the producers of tobacco depends upon the maintenance of a purchasing power for tobacco comparable with the purchasing power of other agricultural commodities, and unless such purchasing power is maintained the reduced power of tobacco producers to purchase industrial products seriously impairs the assets supporting the credit structure of this State and of local subdivisions thereof; and,

Whereas weather and disease affecting the growing of tobacco and losses from fire make it desirable to protect producers whose tobacco crops are adversely affected thereby; and,

Whereas in order to protect the well-being of the people of the State and to promote the general welfare and general prosperity of the State the production, sale, marketing and distribution of tobacco in the State are hereby declared to be a business affected with a public interest which should be

supervised and regulated in the exercise of the police power of the State in the manner herein after provided: Now, Therefore,

Be it enacted by the General Assembly of the State of Kentucky:

§ 1. As used in this Act, unless otherwise stated or unless the context or subject matter clearly indicates otherwise:

"Person" means any individual, partnership, firm, joint-stock, company, corporation, association, trust, estate, or any agency of the State or Federal Government.

"Similar Act" means an act of another State containing provisions substantially the same as this Act, except that the omission of provisions requiring the establishment of acreage quotas for individual farms shall not be deemed a substantial variation from this Act.

"Kind of Tobacco" means one or more types of tobacco as classified in Service and Regulatory Announcement No. 118 Bureau of Agricultural Economics of the United States Department of Agriculture, as listed below according to the name or names by which known:

Types 11, 12, 13 and 14, known as flue-cured tobacco.

Type 31, known as Burley tobacco.

Type 21, 22, 23, 24, 35, 36, and 37, known as fire-cured and dark air-cured tobacco.

"Crop year" means the period from March 1 of one year to February 28 of the succeeding year, both dates inclusive.

"Surplus tobacco" means the quantity of tobacco marketed from the crop produced on a farm in any crop year in excess of the marketing quota for such farm for such year.

"Buyer or handler" means any person who buys tobacco from the producer thereof, or who sells tobacco for the producer thereof, and pays the producer for such tobacco, or who redries or otherwise processes tobacco for the producer thereof prior to the sale of such tobacco by the producer, or any

producer who markets tobacco produced by him directly to the consumer.

"Dealer" means any person who buys and resells tobacco prior to the redrying, conditioning, or processing thereof.

"Producer" means any person who has the right during any year to sell, or to receive a share of the proceeds derived from the sale of, tobacco produced by him or on land owned or leased by him.

"Operator" means any person who, as owner-operator, or as cash rent, standing rent, or share rent tenant, operates a farm (i. e., a tract or tracts of land operated as a unit with the same machinery and other equipment) on which tobacco is produced, and includes a share-cropper who operates a farm if the owner-operator or tenant does not provide for the obtaining of marketing certificates with respect to the tobacco crop of the farm.

"District" means certain counties grouped together geographically and having respectively bases established under the Agricultural Adjustment Administration of the U. S. Department of Agriculture of all types of tobacco of approximately the same poundage. There shall be in Kentucky six districts—district number *one* having the said counties of Fulton, Hickman, Carlisle, Ballard, McCracken, Livingston, Marshall, Calloway, Graves, Trigg, Lyon, Christian, Caldwell, Hopkins, Crittenden, Webster and Union; district number *two* having the said counties of Henderson, McLean, Muhlenberg, Todd, Logan, Simpson, Butler, Ohio, Hancock, Davies, Warren; district number *three* having the said counties of Breckinridge, Grayson, Edmonson, Allen, Monroe, Cumberland, Clinton, Russell, Adair, Metcalfe, Barren, Hart, Green, Taylor, Casey, Marion, Larue, Hardin, Meade, Bullitt, Nelson, Washington and Anderson; district number *four* having the said counties of Fayette, Clark, Jessamine, Boyle, Mercer, Woodford, Scott and Bourbon; district number *five* having the said counties of Jefferson, Spencer, Oldham, Shelby,

Franklin, Henry, Trimble, Carroll, Owen, Harrison, Bracken, Pendleton, Grant, Gallatin, Boone, Kenton and Campbell; district number *six* having the said counties of Mason, Robertson, Nicholas, Lewis, Fleming, Greenup, Carter, Rowan, Bath, Montgomery, Menifee, Powell, Estill, Madison, Garrard, Lincoln, Pulaski, Wayne, Whitley, Laurel, Rockcastle, Jackson, Clay, Knox, Letcher, Perry, Breathitt, Owsley, Lee, Wolfe, Magoffin, Floyd, Johnson, Lawrence, Elliott and Morgan.

§ 2. There is hereby created a commission to be known as the Kentucky Tobacco Commission (hereinafter referred to as the "Commission"). The Commission shall consist of seven (7) members selected as follows: Except for the year 1937 the Director of the State Agricultural Extension Service shall arrange for a meeting of tobacco growers in each county (any county in which there are less than 100 tobacco producers shall be grouped with another adjoining county) at which three (3) tobacco producers shall be elected by the producers attending the meeting to serve as county committeemen for one crop year. The Director of the State Agricultural Extension Service shall arrange for a meeting of the County Committeemen elected in each district, at which meeting the county committeemen in each district shall nominate from among tobacco producers in their respective district, three (3) persons to serve as district committeemen. For the year 1937 such district nominees shall be selected by the County Soil Conservation Committeemen at a meeting called by the Director of the State Agricultural Extension Service. From the three (3) district committeemen nominated in each district the Governor shall appoint one producer to serve for a period of one crop year as a member of the Commission. The Director of the State Agricultural Extension Service shall serve, or shall appoint one member of his staff to serve, as a member of the Commission. Vacancies on the Commission during any crop year shall be filled by the Governor by the

appointment of another of the said district nominees for the remainder of such year from the district in which the vacancy occurs, provided that the Director of the State Agricultural Extension Service shall fill the vacancy in the case of the member of the Commission appointed by him. At the end of each crop year the tobacco commission shall be selected for the succeeding crop year in the manner provided above. Each member of the Commission not already in the employment of the State shall be paid the sum of ten dollars ($10) for each day actually spent in the performance of his duties and shall be reimbursed for subsistence not exceeding five dollars ($5) per day and for necessary travel expenses.

§ 3. The Governor is authorized and directed to negotiate and enter into a compact wth respect to any kind of tobacco with the Governor of each of the States producing such kind of tobacco, provided (1) that such compact shall not become effective until it has been entered into by the States of North Carolina, Virginia, South Carolina, and Georgia, in the case of flue-cured tobacco; by the States of North Carolina, Virginia, Indiana, Ohio and Tennessee in the case of Burley tobacco for the year 1937 and for North Carolina, Virginia, Missouri, and West Virginia, for the year 1938, and by the States of Virginia and Tennessee in the case of fire-cured and dark air-cured tobacco; (2) that such compact shall not become effective during any crop year unless entered into prior to the first day of such crop year, and (3) that any provisions in such compact which relate to the establishment of tobacco acreage quotas as provided herein shall not become effective unless and until the consent of the Congress of the United States shall be given to a compact or compacts providing for the establishment of tobacco acreage quotas. This Act shall become effective with respect to any kind of tobacco upon the establishment of a compact with respect to such kind of tobacco and shall become ineffective upon the withdrawal from such compact by any State required as a party thereto. If an

injunction issued by a court of competent jurisdiction against the enforcement of a similar act of any State is made permanent so as to stop the administration of said act in such State during any crop year, the enforcement of this act may be suspended by the Commission with respect to the kind of tobacco covered by such compact, until such time as the compact is again made effective or the injunction dissolved, as the case may be. Upon the filing with the Commission of a petition or petitions by 15 per cent or more of the producers of any kind of tobacco in this State requesting that this Act be made ineffective with respect to such kind of tobacco, the Commission shall conduct a referendum within sixty days after the receipt of such petition or petitions to determine whether the producers of such kind of tobacco in the State are in favor of the continuation of this Act, and if the Commission finds that one-third or more of the producers who vote in the referendum are not in favor of the continuation of the Act, such finding of the Commission shall be certified to the Governor, who shall proclaim the Act ineffective for the crop year next succeeding the crop year in which the referendum is conducted.

§ 4. The Commission shall meet and cooperate with the tobacco commission of other states that are parties to a compact, and any persons designated by the Secretary of Agriculture of the United States to serve in an advisory capacity, for the purpose of making certain determinations enumerated in this section, and when such determinations are agreed upon by a majority of the members of the commission for this State, and a majority of the members of the commissions for other states, such determination shall be accepted and followed in the administration of this Act.

(a) Determine from statistics of the United States Department of Agriculture a marketing quota which for any kind of tobacco shall be that quantity of such kind of tobacco produced in the United States which is estimated to be required for world consumption during any crop year, in-

creased or decreased, as the case may be, by the amount by which the world stocks of such kind of tobacco at the beginning of such crop year are less than or greater than the normal world's stocks of such kind of tobacco.

(b) Determine a tobacco marketing quota for each State for each kind of tobacco for each crop year for which this Act is in effect with respect to such kind of tobacco. The marketing quota for each State for each kind of tobacco shall be that percentage of the quantity determined under subsection (a) of this section which is equal to the percentage that the total production of such kind of tobacco in the State for the years set forth below is of the total production of such kind of tobacco in the United States for such years:

Flue-cured tobacco, 1935; Burley, fire-cured, and dark air-cured tobacco, 1933, 1934 and 1935.

(c) Determine a base tobacco yield for each State for each kind of tobacco. The base tobacco yield for each kind of tobacco for each State shall be the total production of such kind of tobacco in such State in the year or years named in subsection (b) of this section divided by the total harvested acreage of such kind in such State in such year or years.

(d) Determine and make such adjustments from year to year in the percentage of the marketing quota to be assigned to each State, or in the base yield for each State, or both (as determined pursuant to subsections (b) and (c) of this section and as adjusted in any preceding year pursuant to this section), not exceeding two per centum (2%) decrease or five per centum (5%) increase in any crop year of the percentage of the said marketing quota assigned to each State, or five per centum (5%) decrease or increase of the base yield for each State in any crop year, as are determined to be necessary to correct for any abnormal conditions or production during the year or years specified in subsection (b) of this section, and trends in production during or since year or years in any State as compared with other States, provided that the per-

centages of the marketing quota for any kind of tobbacco for all states producing such kind of tobacco, as adjusted pursuant to this subsection, for any year shall equal 100 per cent.

(e) Determine and make adjustments in the marketing quota established pursuant to subsections (b) and (d) of this section for any kind of tobacco for any crop year, not exceeding ten per centum (10%) of said quota, from time to time during the period from August 1 to December 15 of such year, if, upon study of supply and demand conditions for such kind of tobacco, the Commission finds that such adjustments are required to effectuate the purpose of this Act and of similar acts of other States, provided that any such adjustment shall apply uniformly to all states and only during the crop year in which such adjustment is made.

(f) Determine regulations with respect to the transfer of marketing certificates among producers of any kind of tobacco within any State or within the several states which are parties to a compact with respect to such kind of tobacco.

§ 5. The Commission shall establish tobacco acreage and tobacco marketing quotas for each crop year for any farm on which tobacco is grown, such quotas to be determined as follows:

(a) For any farm for which a base tobacco acreage and a base tobacco production have previously been determined by the Agricultural Adjustment Administration of the United States Department of Agriculture, as shown by the available records and statitstics of that Department, the base tobacco acreage and base tobacco production so last determined shall constitute the tobacco acreage and tobacco marketing quota, subject to such adjustments as are recommended by the county committee of the county in which the farm is located and approved by the Commission as being in conformity with the provisions of subsections (d) and (e) of this section.

(b) For any farm which a base tobacco acreage and base

tobacco production have not been previously determined by the Agricultural Adjustment Administration of the United States Department of Agriculture, the tobacco acreage and tobacco marketing quota shall be established in conformity with the provisions of subsections (d) and (e) of this section, provided that the total of the tobacco acreage and of the tobacco marketing quotas established for such farms in any crop year shall not exceed two per centum (2%) of the total tobacco acreage and tobacco marketing quotas, respectively, established pursuant to subsection (a) of this section plus the tobacco acreage and the tobacco marketing quotas established for farms in preceding years pursuant to this subsection.

(c) The Commission may prescribe regulations under which any farm for which tobacco acreage and marketing quotas of one kind of tobacco are established may exchange such quotas for tobacco acreage and tobacco marketing quotas for another kind of tobacco; provided that all such exchange of quotas between two kinds of tobacco shall not increase by more than two per cent (2%) of the tobacco acreage and tobacco marketing quotas for either kind established for all farms in the state pursuant to subsection (a) of this section.

(d) The tobacco acreage and the tobacco marketing quota established for each farm shall be fair and reasonable as compared with the tobacco acreage and the tobacco marketing quotas for other farms which are similar with respect to the following: The past production of tobacco on the farm and by the operator thereof; the land, labor, and equipment available for the production of tobacco; to crop rotation practices and the soil and other physical factors affecting the production of tobacco.

(e) The tobacco marketing quotas for any kind of tobacco established for all farms in the State in any crop year pursuant to subsections (a), (b), and (c) of this section shall be adjusted so as not to exceed in the aggregate the tobacco marketing quota for such kind of tobacco established for the

State for such year, and the Commission shall prescribe such regulations with respect to such adjustments as will tend to protect the interests of small producers. The total of the tobacco acreage quotas for any kind of tobacco established for all farms in the State in any crop year shall not exceed an acreage determined by dividing the marketing quota for such kind of tobacco for the State by the base tobacco yield for such kind of tobacco for the State determined in accordance with subsections (c) and (d) of Section 4.

(f) If, after marketing quotas are established for farms for any kind of tobacco in any crop year, there is an adjustment pursuant to subsection (e) of Section 4 in the marketing quota for such kind of tobacco for the State for such year, the marketing quotas for all farms in the State shall be adjusted accordingly.

(g) If a base tobacco yield is not determined by the several State Commissions the Commission for this State shall determine a base yield for the State in accordance with the procedure specified in subsections (c) and (d) of Section 4.

§ 6. The Commission is authorized and directed:

(a) To notify as promptly as possible the operator of each farm, for which acreage and marketing quotas are established, of the amount of such quotas for the farm and of any adjustments thereof which may be made from time to time pursuant to this Act.

(b) Upon application therefor by the operator of the farm, or by the person marketing the tobacco grown thereon, to issue, to the buyer or handler who purchases or handles such tobacco, marketing certificates for an amount of tobacco not in excess of the marketing quota for the farm (as adjusted pursuant to subsection (f) of Section 5) of which such tobacco is produced, or for the quantity of tobacco harvested from the crop produced on such farm, whichever is smaller, provided that if the quantity of tobacco marketed from the crop produced on any farm is less than the marketing quota for the

farm, the Commission shall permit the transfer (in accordance with regulations prescribed by the Commission) by the producers on the farm of marketing certificates for an amount of tobacco equal to the difference between the said quantity marketed and the said marketing quota, and provided further that such regulations shall be uniform as to the same kind of tobacco in all States entering into a compact with respect to such kind of tobacco.

(c) Upon application therefor by any buyer or handler, to issue marketing certificates for surplus tobacco produced on the farm upon payment of a charge of twenty-five per centum (25%) of the gross value, or of one and one-half cents per pound, whichever is larger, of the tobacco covered by such certificates. The buyer or handler, in settling with the grower, shall deduct from the proceeds of sale of such surplus tobacco, or, if not sold, from any advance or loan thereon, the amount of such charge, which charge shall be deemed an assessment upon the producer for the purpose of paying the costs, charges, and expenditures provided for by this Act.

(d) Upon application therefor by any tobacco dealer, to issue, under such terms and conditions as the Commission shall by regulations prescribe, resale certificate for such tobacco purchased by any dealer during any day as such dealer specifies will be resold prior to the redrying or processing thereof, where marketing ceartificates or resale certificates have been issued for such tobacco pursuant to the provisions of this Act.

(e) To utilize such services of the County agent in their respective counties and of existing agricultural conservation committees as may be available in the administration of this Act and which are not in conflict with their present authority and duties.

(f) To provide for the making of such investigations and the holding of such hearings as the Commission finds necessary in connection with the establishment of acreage and mar-

keting quotas for farms and to designate persons to conduct such investigations and hold such hearings in accordance with regulations prescribed by the Commission.

(g) To measure the acreage of tobacco grown for harvest on each farm for the purpose of checking such measurement with the acreage quota for the farm and to prescribe any such regulations as may be necessary in connection therewith.

(h) To prescribe such other regulations as the Commission finds necessary to the exercise of the powers and the performance of the duties vested in it by the provisions of this Act.

§ 7. The Commission is authorized:

(a) To accept, deposit with the State Treasurer, and provide for the expenditure of such funds as the Congress of the United States may advance or grant to the State for the purpose of administering this Act. Such expenditure shall be in accordance with the Act of Congress authorizing or making such advance or grant.

(b) To receive, through such agents as it may designate, all payments covering the sale of marketing certificates pursuant to subsection (c) of Section 6; to provide for the fixing of an adequate bond for any person responsible for receiving and disbursing any funds of or administered by the Commission, and to provide for the expenditure of such funds in the manner prescribe in Section 9 of this Act.

§ 8. All receipts from sale of marketing certificates pursuant to subsection (c) of Section 6 and all funds granted or advanced to the State by the Congress of the United States for the purpose of administering this Act shall be deposited with the State Treasurer and shall be placed by him in a special fund known as the "Tobacco Commission Account", and the entire amount of such receipts and funds hereby is appropriated out of such Tobacco Commission Account and shall be available to the Commission until expended.

§ 9. Funds of or administered by the Commission shall be expended in accordance with regulations prescribed by the Commission for the following purposes: First, to repay to the Treasurer of the United States any funds advanced to the State by the Congress of the United States for the purpose of administering this Act, provided the United States requires such payment. Second, to pay any expenses lawfully incurred in the administration of this Act, including expenses of any agency of the State incurred at the request of the Commission. Third, to make payment to tobacco producers whose sales of tobacco, because of loss by fire or weather, or diseases affecting their tobacco crops adversely during any crop year, are less than the marketing quotas for their farms for such year. Such payments shall be at a rate per pound of such deficit determined by dividing the funds available for such payments by the total number of pounds by which the sales of tobacco by all producers fall below the marketing quotas for their farms, provided that such deficit is due to loss by fire or weather, or diseases affecting their crops adversely, and provided, further, that such rate of payment shall in no event exceed five cents per pound, and that no such payments shall be made until there is established as a reserve an amount necessary to pay the expenses which the Commission estimates will be incurred in the administration of this Act for a period of one crop year.

§ 10. Upon the establishment of marketing quotas for any kind of tobacco for individual farms for any crop year, pursuant to the provisions of this Act, it shall be unlawful,

(a) For any person knowingly to sell, to buy, to redry or to condition or otherwise process any of such kind of tobacco harvested in such crop year unless the marketing certificates therefor have been issued as provided in this Act.

(b) For any dealer to resell any of such kinds of tobacco for which marketing certificates have not been issued as aforesaid, prior to the redrying, conditioning, or processing

thereof, except in his own name, or to resell any such tobacco except that purchased and owned by him and covered by a marketing certificate or resale certificate previously issued showing such dealer to be the purchaser of such tobacco, or to redry, condition, or process or to have redried, conditioned, or processed, prior to the resale thereof, any such tobacco covered by a resale certificate unless the resale certificate issued with respect thereto is surrendered to the Commission.

§ 11. Any person wilfully selling, buying, redrying, conditioning or processing tobacco of any kind with respect to which this Act is effective for which marketing certificates or resale certificates have not been issued as provided in this Act, or any person willfully participating or aiding in the selling, buying, redrying, conditioning or processing of tobacco not covered by such marketing or resale certificates, or any person offering for sale or selling any tobacco except in the name of the owner thereof, shall forfeit to the State a sum equal to three times the current market value of such tobacco at the time of the commission of such an act, which forfeiture shall be recoverable in a civil suit brought in the name of the State.

§ 12. Any operator wilfully harvesting or wilfully permitting the harvesting of tobacco on a farm from an acreage in excess of the acreage quota for the farm shall forfeit to the State a sum equal to $50.00 per acre of that acreage harvested in excess of the acreage quota for the farm, which forfeiture shall be recoverable in a civil suit brought in the name of the State.

§ 13. Any person violating any provisions of this Act, or or any regulation of the Commission issued pursuant thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum of not more than fifty dollars for the first offense, and not more than one hundred dollars for each subsequent offense.

§ 14. All tobacco producers, warehousemen, buyers,

dealers, and other persons having information with respect to the planting, harvesting, marketing, or redrying or conditioning or processing of tobacco in this State shall from time to time, upon written request of the Commission or its duly authorized representative, furnish such information and file such returns as the Commission may find necessary or appropriate to the enforcement of this Act. Any person wilfully failing or refusing to furnish such information or to file such return, or wilfully furnishing any false information or wilfully filing any false return, shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum of not more than one hundred dollars for each such offense.

§ 15. The several circuit courts of the State are hereby vested with jurisdiction specifically to punish violations of this Act, and are vested with jurisdiction, upon application of the Commission, to enjoin and restrain any person from violating the provisions of this Act or of any regulations issued pursuant to this Act.

§ 16. Upon request of the Commission, it shall be the duty of the several attorneys for the State, in their respective jurisdictions, to institute proceedings to punish for the offenses, enforce the remedies, and to collect the forfeitures provided for in this Act, and it shall be the duty of the Commission to call to the attention of the prosecuting officers of the State any violation of any of the criminal provsions of this Act.

§ 17. If any provision of this Act or the application thereof to any persons or circumstance shall be held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 18. In order to assure the proper coordination of the administration of this Act with the administration of similar acts of other States, marketing certificates and resale certificates shall be issued by the Commission, in accordance with

regulations prescribed by the Commission, with respect to tobacco marketed in this state, or redried, conditioned, or processed in this State prior to the first sale thereof, or resold even though such tobacco was produced in another State, and the receipts from sales of marketing certificates for surplus tobacco produced in such other State shall be paid to the commission of the State in which such tobacco was produced and the Commission shall cooperate with and assist the commission of any other State in obtaining such records as may be necessary to the adminitsration of any similar act of such State.

§ 19. The compact as referred to in Section 3 of this Act shall contain the provisions shown below, subject to such alterations or amendments as shall not be in conflict with the provisions of this Act, and as shall be agreed upon from time to time by the States which enter into such compact.

COMPACT

This agreement entered into this ..... day of .....
between the State of ....., by ....., Governor;
the State of ....., by....., Governor;
the State of ....., by....., Governor;
and the State of ....., by....., Governor;

WITNESSETH:

Whereas, the parties hereto have each enacted a State statute providing for the regulation and control of the production and sale of tobacco in the States, and providing for the protection of the producers' tobacco crops from the adversities of unfavorable weather, crop diseases, and fire; and,

Whereas, it is the desire of the parties uniformly to enforce each State statute so as to accomplish the purpose for which each was enacted:

Now, Therefore, the parties do hereby jointly and severally agree as follows:

(1) To cooperate with each other in establishing for each crop year a marketing quota for each State for each kind of tobacco referred to in the respective State statutes with respect to which such State statutes are or will be in effect for such crop year.

(2) To cooperate with each other in formulating such regulations as will assure uniform and effective administration and enforcement of each of the aforesaid State statutes.

(3) Not to depart from or fail to enforce to the best of its ability any regulation concerning the enforcement of the State statutes without the consent of a majority of the members of the tobacco commissions of each of the several parties to this compact.

IN WITNESS WHEREOF, the parties here hereunto set their hands as of the date of the year first above written.

State of.....
By .....
Governor
State of.....
By .....
Governor
State of.....
By .....
Governor
State of.....
By .....
Governor

By Mr. Wallace Brown:

H. B. 19. An Act relating to unfair sales in wholesale and retail trade, making certain unfair and discriminatory practices unlawful, defining words, phrases, and terms used, providing for actions to enjoin unfair sales, making the vio-

lation of the provisions of this Act a misdemeanor and providing penalties therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* The words and phrases used herein shall, unless the context otherwise indicates, have the following meanings:

(a) The term "cost to the retailer" shall mean whichever is lower of the following: (1) The purchase price of the merchandise to the retailer at the retail outlet, or (2) the replacement cost of such merchandise to the retailer, in the quantity last purchased by the retailer, within thirty (30) days prior to the sale of such merchandise by the retailer; Less any trade discounts, but exclusive of discounts for cash, and plus a mark-up amounting to less than the minimum cost of distribution by the most efficient retailer, which mark-up, in the absence of proof to the contrary, shall be twelve per cent (12%); provided that, in the event a cost of distribution lower than twelve per cent (12%) can be proven by the retailer, then the mark-up shall be reduced to such lower figure. In all retail sales involving more than one item or commodity the retailer's selling price on individual items or commodities shall be computed on the "cost to the retailer" as herein defined.

(b) The term "cost to the wholesaler" shall mean whichever is lower of the following: (1) The purchase price of the merchandise to the wholesaler at the wholesale outlet, or (2) the replacement cost of such merchandise to the wholesaler, in the quantity last purchased by the wholesaler, within sixty (60) days prior to the sale of such merchandise by the wholesaler; less any trade discounts, but exclusive of discounts for cash, and plus a mark-up amounting to less than the minimum cost of distribution by the most efficient

wholesaler, which mark-up, in the absence of proof to the contrary, shall be three percent (3%); provided that, in the event a cost of distribution lower than three percent (3%) can be proven by the wholesaler, then the mark-up shall be reduced to such lower figure. In all wholesales involving more than one item or commodity, the wholesaler's selling price on individual items or commodities shall be computed on the "cost to the wholesaler" as herein defined.

(c) The terms "cost to the retailer" and "cost to the wholesaler" must be bona fide costs, and sales to retailers and wholesalers at prices which cannot be justified by existing market conditions within this State shall not be used as a basis for computing costs with respect to sales by retailers and wholesalers.

(d) The terms "sell at retail", "sales at retail", and "retail sales" shall mean and include any transfer for a valuable consideration, made in the ordinary course of trade or in the usual prosecution of the seller's business, of title to tangible personal property to the purchaser for consumption or use other than resale or reprocessing of manufacturing. The above terms shall mean any transfer of such property where title is retained as security for the purchase price but is intended to be transferred later.

(e) The terms "sell at wholesale", "sales at wholesale", and "wholesale sales" shall mean and include any transfer for a valuable consideration, made in the ordinary course of trade or the usual prosecution of the seller's business, title to tangible personal property to the purchaser for resale. The above terms shall mean any transfer of such property where title is retained as security for the purchase price but is intended to be transferred later.

(f) The term "retailer" shall mean and include every person, partnership, firm, corporation or association engaged in the business of making sales at retail within this State.

(g) The term "wholesaler" shall mean and include every

person, partnership, firm, corporation or association engaged in the business of making sales at wholesale within this State.

(h) Any person, partnership, firm, corporation, or association performing the functions of both wholesaler and retailer, are subject to all the provisions of this Act dealing with both wholesaler and retailer as defined in this Section.

§ 2. It is hereby declared that advertising, offers to sell or sales by retailers or wholesalers at less than cost as defined in this Act, with the intent or effect of inducing the purchase of other merchandise or of unfairly diversing trade from a competitor or otherwise injuring a competitor, impair and prevent fair competition, injure public welfare, and are unfair competition and contrary to public policy, where the result of such advertising, offers or sales is to deceive or mislead any purchaser or prospective purchaser or to substantially lessen competition or unreasonably restrain trade or tend to create a monopoly in any line of commerce. It is further declared that such advertising, offers or sales by any retailer or wholesaler with such intent or effect or result are in contravention of the policy of this Act.

§ 3. Where a particular trade or industry, of which the person, firm, or corporation complained against is a member has an established cost survey for the locality and vicinity in which the offense is committed, the said cost survey shall be deemed competent evidence to be used in proving the costs of the person, firm or corporation complained against within the provisions of this Act.

§ 4. Any retailer who shall, in contravention of the policy of this Act, advertise, offer to sell or sell at retail any merchandise at less than cost to the retailer as defined in this Act, or any wholesaler who shall, in contravention of the policy of this Act, advertise, offer to sell, or sell at wholesale any merchandise at less than cost to the wholesaler as defined in this Act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not

more than Five Hundred ($500.00) Dollars. Proof of any such advertising, offer to sell or sale by any retailer or wholesaler in contravention of the policy of this Act shall be prima facie evidence of a violation of this Act.

§ 5. In addition to the penalties provided in this Act, the Attorney General, or any Commonwealth or county attorney, or any person damaged, or who is threatened with loss or damage, by reason of a violation of this Act, shall have the right to apply for an injunction, and any court of competent jurisdiction shall have the power to restrain sales in violation of this Act.

§ 6. The provisions of this Act shall not apply to sales at retail or sales at wholesale made,

(a) in an isolated transaction and not in the usual course of business;

(b) where merchandise is sold in bona fide clearances sales, if advertised, marked and sold as such;

(c) where perishable merchandise must be promptly sold in order to forestall loss;

(d) of imperfect or damaged merchandise, or merchandise which is being discontinued, if advertised, marked and sold as such;

(e) of merchandise sold upon the complete final liquidation of any business;

(f) of merchandise sold for charitable purposes or to unemployment relief agencies;

(g) of merchandise sold on contract to departments of government and governmental institutions;

(h) in meeting the price of a competitor on merchandise which is the same as to comparable competitive factors, such as weight, quantity, quality, pack, brand or packaging;

(i) by any officer acting under the order or direction of any court.

§ 7. This Act shall be known and cited as the "Unfair Sales Act"

§ 8. If any section, sentence or clause of this Act shall for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining parts hereof.

Ordered that said bills and resolutions be printed.

The Speaker announced that he had referred

H. Res. 12. To Committee on Appropriations No. 1.

H. Res. 13. To Committee on Kentucky Statutes No. 1.

Dr. Shields moved that the vote by which the House agreed that when the House adjourn today, it adjourn to meet on tomorrow at eleven o'clock A. M., be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Davis moved that when the House adjourn today, it adjourn to meet again on tomorrow at twelve o'clock M.

Said motion was agreed to.

The House took up for consideration from the Calendar a bill entitled:

H. B. 13. An Act to protect trade-mark owners, distributors and the public against injurious and uneconomic practices, etc.

Ordered that said bill be read the second time.

The constitutional provision as to the second reading of

said bill at length being dispensed with, said bill was read the second time by its title only.

Ordered that said bill be placed in the Orders of the Day.

Mr. Hammons moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, JANUARY 7, 1937.

The House was opened with prayer by the Reverend E. W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Roy Conway	Clyde S. Howard
Henry H. Allen	Herbert Cook	Ira W. Hulette
C. W. Anderson, Jr.	Harry Davis	John M. Hunnicut
H. T. Baker	Sam Dever	Ben W. Johnson
W. T. Baker	Stanley S. Dickson	O. C. Jones
G. M. Ballard	George W. Dunlap	R. T. Kirkman
B. F. Bedford	Howard G. Early	J. F. Ladd
Reuben J. Boling	Garland Embry	Leslie Larrimore
Douglas Bolling	Walter R. Fannin	Robert E. Lee
Ollie J. Bowen	T. P. Fitzpatrick	T. B. McConnell
Wallace Brown	James Garnett, Jr.	Lloyd MacDonald
Dr. R. A. Byers	G. W. Garrett	W. F. McGary
Jas. C. Carter	Ferd A. Gnau	Elmer McGlothen
V. O. Chandler	Eugene Gough	C. S. Matherly
Floyd Clark	Jas. T. Hamilton	D. T. Matlack
Roscoe Claxon	C. L. Hammons	Duke Mayfield
George S. Clay	Price Holbrook	G. S. Milam

John B. Mollett	John C. Robinson	Dr. H. S. Swope
W. E. Mull	W. T. Rollo	W. R. Tapp
Tyler Munford	A. W. Ross	J. J. Thomas
Russell O'Neill	Carl Scheben	R. Van Bever, Jr.
Mel Petry	Carl Schneider	S. J. Wagner
A. W. Pfeiffer	Ray O. Shehan	Joseph L. Wall
J. C. Ramey	Dr. B. F. Shields	Henry Ward
Hobart Rayburn	P. L. Sidebottom	W. G. Williams
L. K. Rice	Chester D. Silvers	Charles Wylie
Wade H. Riley	H. C. Steely	
Joe E. Robinson	Henry Stewart	

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Gnau moved that a leave of absence be granted to Mr. Farnsley.

Said motion was agreed to.

Dr. Shields moved that the House do now agree to resolve itself into a Committee of the Whole House on Monday, January 11, for the purpose of considering a bill entitled:

H. B. 18. An Act to provide for the supervision and regulation of the production, sale, marketing and distribution of tobacco, etc.

By unanimous consent said motion was withdrawn.

Mr. Matherly moved that the Rules of this House be suspended for the purpose of making Committee Reports.

Said motion was agreed to.

Thereupon the Committee to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. H. H. Allen of the Committee on Trade and Commerce:

H. B. 15. An Act to provide for the registration of trade-marks, stamps, seals, designs, devices, patterns, advertisements, forms of advertisement, letters, etc.

By Mr. Dunlap of the Committee on Kentucky Statutes No. 1:

S. B. 7. An Act repealing Chapter 3 of the Acts of the Third Special Session (Revenue Session) of the General Assembly of 1936, known as the Luxury Tax, etc.

By Mr. Matherly of the Committee on Judiciary:

H. B. 14. An Act authorizing refund of taxes paid under provisions of Chapter 149 of the Acts of the General Assembly of 1930, etc.

With a Committee amendment thereto.

With the expression of opinion that said bills ought to pass.

Said bills were severally read at length the first time and ordered to be placed in the Calendar.

The House took up for consideration from the Calendar bills of the following titles, viz.:

H. B. 12. An Act to provide for the stabilization of the milk industry in the State of Kentucky; creating a State Milk Control Board, defining the powers and duties of said State Milk Control Board, etc.

With an amendment thereto by way of Substitute therefor.

H. B. 16. An Act repealing Section 2237-1, Carroll's Kentucky Statutes (1936 Revision), being Chapter 24 of the Acts of Extraordinary Session of the General Assembly of 1934, etc.

S. B. 3. An Act to authorize cities of the first class to construct law school buildings for municipal universities where the ground for such buildings has been conveyed to the city free of cost.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. Hammons moved that the Investigating Committee heretofore appointed from the House and Senate, to investigate the Reorganization Bill passed during the Special Session of 1936, be requested to make a report of their findings to this House on Monday, January 11.

Said motion was agreed to.

Mr. Hulette moved that the Clerk of this House be directed to have printed 100 additional copies of the Tobacco Control Bill for the use of the members of this House.

Mr. Rayburn moved that said motion be amended to include the printing of 500 copies.

Said amendment was agreed to.

Said motion was then agreed to, as amended.

Mr. Garnett moved that the Director of the Unemployment Insurance Commission be requested to have 500 copies of the Unemployment Insurance Bill for the use of the members of the General Assembly.

Said motion was agreed to.

Mr. Shehan moved that Mr. Diskin and the representative of the Mose Glenn Club of Louisville, who will be in charge of the special train from Kentucky to Washington, D. C., for the inauguration of The Honorable Franklin Delano Roosevelt, President of the United States, be granted five minutes to explain details of the trip to the members of the House.

Said motion was agreed to.

Thereupon Mr. Diskin and the representative of the Mose Glenn Club addressed the House and explained the details of the trip.

Mr. Brown moved that the Rules of this House be suspended and that a bill entitled:

H. B. 12. An Act to provide for the stabilization of the milk industry in the State of Kentucky; creating a State Milk Control Board, defining the powers and duties of said State Milk Control Board, etc.

With an amendment thereto by way of Substitute therefor.

Be recommitted to the Committee on Agriculture No. 1 and that said bill retain its place in the Orders of the Day.

Said motion was agreed to.

The Speaker announced that he had referred bills which were introduced on yesterday, as follows, viz.:

H. B. 19. To Committee on Court of Appeals.

H. B. 18. To Committee on Agriculture No. 2.

The Speaker announced the personnel of the Committee on Agriculture No. 2 to be as follows, viz.:

AGRICULTURE No. 2

John C. Robinson, Chairman

Wade Riley	Henry Stewart
B. F. Bedford	Stanley Dickson
John Marshall	Joe Wall
Duke Mayfield	R. T. Kirkman

Mr. Gnau moved that the House do now recess for five minutes.

Said motion was agreed to.

And then the House recessed.

After a time the Speaker resumed the Chair and called the House to order.

Mr. Tapp moved that the Rules of this House be suspended for the purpose of making a Committee report.

Said motion was agreed to.

Thereupon Mr. Tapp of the Committee on Court of Appeals, to which the same had been previously referred, reported a bill entitled:

H. B. 19. An Act relating to unfair sales in wholesale and retail trade, making certain unfair and discriminatory practices, etc.

Without an expression of opinion.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Davis moved that the vote by which the House agreed that when they adjourn today, they adjourn to meet again on tomorrow at twelve o'clock M., be reconsidered.

Said motion was agreed to.

Mr. Milam moved that the House do now adjourn.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Gnau and Shields, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	James Garnett, Jr.	Tyler Munford
Henry H. Allen	G. W. Garrett	Russell O'Neill
H. T. Baker	C. L. Hammons	A. W. Pfeiffer
G. M. Ballard	W. L. Hampton, Jr.	Hobart Rayburn
B. F. Bedford	Price Holbrook	Ray O. Shehan
Reuben J. Boling	Ira W. Hulette	P. L. Sidebottom
Floyd Clark	Ben W. Johnson	Chester D. Silvers
Roy Conway	Leslie Larrimore	H. C. Steely
Harry Davis	Robert E. Lee	W. R. Tapp
Garland Embry	G. S. Milam	R. Van Bever, Jr.
Walter R. Fannin	John B. Mollett	Joseph L. Wall

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Those who voted in the negative were—

Ollie J. Bowen	J. F. Ladd	John C. Robinson
Jas. C. Carter	D. T. Matlack	W. T. Rollo
Howard G. Early	Duke Mayfield	Carl Scheben
Ferd A. Gnau	W. E. Mull	Dr. B. F. Shields
J. H. Jones	Mel Petry	Henry Ward
O. C. Jones	J. C. Ramey	
R. T. Kirkman	Joe E. Robinson	—19

And then the House adjourned.

FRIDAY, JANUARY 8, 1937.

The House was opened with prayer by the Reverend E. W. Baxter of the Episcopal Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Harry Davis	Clyde S. Howard
Henry H. Allen	Sam Dever	Ira W. Hulette
C. W. Anderson, Jr.	George W. Dunlap	John M. Hunnicut
H. T. Baker	Howard G. Early	J. H. Jones
W. T. Baker	Walter R. Fannin	O. C. Jones
G. M. Ballard	T. P. Fitzpatrick	R. T. Kirkman
B. F. Bedford	H. Myer Garner	J. F. Ladd
Reuben J. Boling	James Garnett, Jr.	Leslie Larrimore
Douglas Bolling	G. W. Garrett	Robert E. Lee
Ollie J. Bowen	Ferd A. Gnau	T. B. McConnell
Wallace Brown	Eugene Gough	Lloyd MacDonald
Jas. C. Carter	Ben Grogan	W. F. McGary
V. O. Chandler	James T. Hamilton	Elmer McGlothen
Floyd Clark	C. L. Hammons	C. S. Matherly
Roscoe Claxon	W. L. Hampton, Jr.	D. T. Matlack
George S. Clay	Thomas W. Hines	Duke Mayfield
Roy Conway	Price Holbrook	G. S. Milam

W. H. Miller	Joe E. Robinson	Henry Stewart
W. E. Mull	John C. Robinson	Dr. H. S. Swope
Tyler Munford	W. T. Rollo	W. R. Tapp
J. C. Nickell	A. W. Ross	J. J. Thomas
Russell O'Neill	Carl Scheben	R. Van Bever, Jr.
Mel Petry	Ray O. Shehan	S. J. Wagner
A. W. Pfeiffer	Dr. B. F. Shields	Joseph L. Wall
J. C. Ramey	P. L. Sidebottom	Henry Ward
Hobart Rayburn	Chester D. Silvers	W. G. Williams
L. K. Rice	Bruce Sloan	Charles Wylie
Wade H. Riley	H. C. Steely	

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

A message was received from the Senate, announcing that they had passed a bill which originated in this House, entitled:

H. B. 2. An Act exempting building and loan associations organized under the laws of this state and under the laws of the United States from the payment of income tax upon the entire net income of such corporations.

(With an amendment thereto as proposed and adopted by the Senate.)

(For bill see House Journal of January 4.)

Said amendment as proposed and adopted by the Senate, is as follows, viz.:

Amend H. B. 2 in the Senate by adding after the word "State" in line 2 of the printed bill the following words:

"And under the laws of the United States and making loans to its members only."

Said amendment was then concurred in.

Said bill was then passed, as amended.

The yeas and nays, being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker	Clyde S. Howard	L. K. Rice
Reuben J. Boling	Ira W. Hulette	Wade H. Riley
Douglas Bolling	John M. Hunnicut	Joe E. Robinson
Wallace Brown	J. H. Jones	John C. Robinson
Jas. C. Carter	R. T. Kirkman	W. T. Rollo
V. O. Chandler	J. F. Ladd	Carl Scheben
Roscoe Claxon	Leslie Larrimore	Ray O. Shehan
George S. Clay	Robert E. Lee	Dr. B. F. Shields
Roy Conway	T. B. McConnell	P. L. Sidebottom
Harry Davis	Lloyd MacDonald	Chester D. Silvers
Sam Dever	W. F. McGary	Bruce Sloan
Howard G. Early	Elmer McGlothen	H. C. Steely
Walter R. Fannin	C. S. Matherly	Henry Stewart
T. P. Fitzpatrick	D. T. Matlack	Dr. H. S. Swope
James Garnett, Jr.	Duke Mayfield	J. J. Thomas
G. W. Garrett	G. S. Milam	R. Van Bever, Jr.
Ferd A. Gnau	W. E. Mull	S. J. Wagner
Eugene Gough	Tyler Munford	Joseph L. Wall
Ben Grogan	J. C. Nickell	Henry Ward
Jas. T. Hamilton	Russell O'Neill	W. G. Williams
C. L. Hammons	Mel Petry	Charles Wylie
W. L. Hampton, Jr.	J. C. Ramey	
Price Holbrook	Hobart Rayburn	—67

Mr. Hunnicut moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

H. B. 8. An Act to repeal, amend and re-enact Section 10 and Section 12 of Chapter 4 of the Acts of the Third Session of the 1936 General Assembly being entitled "An Act concerning revenue and taxation, and declaring an emergency", etc.

Ordered that said bills be delivered to the Enrolling Clerk of this House.

And that they had passed a resolution which originated in this House, entitled:

H. Res. 4. Joint Resolution on Mud River Drainage into Green River at Rochester, Kentucky.

And that they had passed a bill and resolution which originated in that body, entitled:

S. B. 5. An Act relating to non-profit cooperative corporations and providing, but not by way of limitation, for the formation, operation, consolidation, and dissolution of non-profit cooperative corporations to be known as "Rural Electric Cooperative Corporations."

S. Res. 9. Resolution providing for *sine die* adjournment of this Extraordinary Session of the General Assembly, which began December 23, 1936, on January 16, 1937.

Be it Resolved by the Senate of Kentucky, the House of Representatives, concurring therein:

That when this Extraordinary Session of the General Assembly, which began on December 23, 1936, adjourns on January 16, 1937, it adjourn *sine die*.

Ordered that said bill be printed and that said bill and resolution be referred.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 14. An Act authorizing refund of taxes paid under provisions of Chapter 149 of the Acts of the General Assembly of 1930, etc.

H. B. 15. An Act to provide for the registration of trademarks, stamps, seals, designs, devices, patterns, advertisements, forms of advertisement, letters, etc.

S. B. 7. An Act repealing Chapter 3 of the Acts of the Third Special Session (Revenue Session) of the General Assembly of 1936, known as the Luxury Tax, etc.

H. B. 19. An Act relating to unfair sales in wholesale and retail trade, making certain unfair and discriminatory practices, etc.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Dr. Shields moved that when the House adjourn today, it adjourn to meet again on Monday, January 11 at one o'clock P. M.

Said motion was agreed to.

Dr. Shields moved that a bill entitled:

H. B. 16. An Act repealing Section 2237-1, Carroll's Kentucky Statutes (1936 Revision), being Chapter 24 of the Acts of the Extraordinary Session of the General Assembly of 1934, relating to the consolidation of the office of jailer with that of sheriff in each County of the State.

Be made a Special Order of this House for Monday, January 11, at two o'clock P. M.

Said motion was disagreed to.

The yeas and nays, being required thereon by Messrs. Hammons and Gnau, were as follows, viz.:

Those who voted in the affirmative were—

B. F. Bedford	W. L. Hampton, Jr.	J. C. Ramey
Douglas Bolling	Clyde S. Howard	Joe E. Robinson
Ollie J. Bowen	J. H. Jones	John C. Robinson
Wallace Brown	Robert E. Lee	Carl Scheben
Roscoe Claxon	W. F. McGary	Dr. B. F. Shields
Roy Conway	D. T. Matlack	Chester D. Silvers
George W. Dunlap	Duke Mayfield	S. J. Wagner
James Garnett, Jr.	W. H. Miller	Joseph L. Wall
Eugene Gough	Mel Petry	Henry Ward

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Those who voted in the negative were—

F. T. Allen	Howard G. Early	Thomas W. Hines
Henry H. Allen	Walter R. Fannin	Price Holbrook
H. T. Baker	T. P. Fitzpatrick	Ira W. Hulette
G. M. Ballard	H. Myer Garner	R. T. Kirkman
Reuben J. Boling	C. W. Garrett	J. F. Ladd
Jas. C. Carter	Ferd A. Gnau	Leslie Larrimore
V. O. Chandler	Ben Grogan	T. B. McConnell
George S. Clay	Jas. T. Hamilton	Lloyd MacDonald
Sam Dever	C. L. Hammons	Elmer McGlothen

G. S. Milam	L. K. Rice	Henry Stewart
W. E. Mull	Wade H. Riley	Dr. H. S. Swope
Tyler Munford	W. T. Rollo	J. J. Thomas
J. C. Nickell	Ray O. Shehan	R. Van Bever, Jr.
Russell O'Neill	P. L. Sidebottom	W. G. Williams
A. W. Pfeiffer	Bruce Sloan	
Hobart Rayburn	H. C. Steely	—46

Mr. Nickell moved that the Rules of this House be suspended and that said bill be taken up for immediate consideration.

Said motion was agreed to.

The yeas and nays being taken thereon, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	H. Myer Garner	J. C. Nickell
Henry H. Allen	G. W. Garrett	Russell O'Neill
H. T. Baker	Ferd A. Gnau	Mel Petry
G. M. Ballard	Ben Grogan	A. W. Pfeiffer
Reuben J. Boling	Jas. T. Hamilton	Hobart Rayburn
Jas. C. Carter	C. L. Hammons	L. K. Rice
V. O. Chandler	Thomas W. Hines	Wade H. Riley
Floyd Clark	Price Holbrook	W. T. Rollo
George S. Clay	Ira W. Hulette	Ray O. Shehan
Roy Conway	R. T. Kirkman	P. L. Sidebottom
Herbert Cook	J. F. Ladd	Bruce Sloan
Harry Davis	Leslie Larrimore	H. C. Steely
Sam Dever	Robert E. Lee	Henry Stewart
George W. Dunlap	T. B. McConnell	Dr. H. S. Swope
Howard G. Early	Lloyd MacDonald	J. J. Thomas
Walter R. Fannin	Elmer McGlothen	R. Van Bever, Jr.
T. P. Fitzpatrick	W. E. Mull	W. G. Williams

—51

Those who voted in the negative were—

B. F. Bedford	W. L. Hampton, Jr.	Joe E. Robinson
Douglas Bolling	Clyde S. Howard	John C. Robinson
Ollie J. Bowen	J. H. Jones	Carl Scheben
Wallace Brown	W. F. McGary	Chester D. Silvers
Roscoe Claxon	D. T. Matlack	S. J. Wagner
James Garnett, Jr.	Duke Mayfield	Joseph L. Wall
Eugene Gough	J. C. Ramey	Henry Ward

—21

Thereupon the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 16. An Act repealing Section 2237-1, Carroll's Kentucky Statutes (1936 Revision), being Chapter 24 of the Acts of Extraordinary Session of the General Assembly of 1934, relating to the consolidation of the office of jailer with that of sheriff in each County of the State.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 2237-1, Carroll's Kentucky Statutes (1936 Revision), being Chapter 24, of the Acts of the Extraordinary Session of the General Assembly of 1934, consolidating the office of jailer with that of sheriff in each County of the State, be and it is hereby repealed.

Mr. Garnett offered the following amendment to said bill, viz.:

Amend H. B. 16 by adding the following words to Section 1: "Provided that when the said office of Jailer is so reestablished, that he shall serve on a salary basis of compensation and pay all fees received by his office into the treasury of

his county, or into the state treasury, as heretofore provided by law; that his said salary be determined by taking his average reported net income per annum for the five years immediately preceding the passage of this act, as reported by him to the court of his county, or to the Auditor of the Commonwealth, and that such yearly average be his salary per annum; that all expenses of maintaining the jail be paid for by the fiscal court, and provided for in the county budget each year, payable out of fees now provided by law received from the state and all other governmental units. Said salary of the jailer shall be derived proportionately out of state, county, and other fees as now provided by law."

Said amendment was disagreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

W. T. Baker	Eugene Gough	John C. Robinson
B. F. Bedford	W. L. Hampton, Jr.	Carl Scheben
Douglas Bolling	M. T. McCarthy	P. L. Sidebottom
Ollie J. Bowen	W. F. McGary	Chester D. Silvers
Wallace Brown	D. T. Matlack	S. J. Wagner
Roscoe Claxon	Duke Mayfield	Joseph L. Wall
George S. Clay	Tyler Munford	Henry Ward
Roy Conway	Mel Petry	Charles Wylie
George W. Dunlap	J. C. Ramey	
James Garnett, Jr.	Joe E. Robinson	—28

Those who voted in the negative were—

F. T. Allen	Jas. C. Carter	Walter R. Fannin
Henry H. Allen	V. O. Chandler	T. P. Fitzpatrick
H. T. Baker	Floyd Clark	H. Myer Garner
G. M. Ballard	Herbert Cook	G. W. Garrett
Reuben J. Boling	Sam Dever	Ferd A. Gnau

Ben Grogan	T. B. McConnell	W. T. Rollo
Jas. T. Hamilton	Lloyd MacDonald	Ray O. Shehan
C. L. Hammons	Elmer McGlothen	Bruce Sloan
Thomas W. Hines	G. S. Milam	H. C. Steely
Price Holbrook	W. E. Mull	Henry Stewart
Ira W. Hulette	J. C. Nickell	Dr. H. S. Swope
J. H. Jones	Russell O'Neill	W. R. Tapp
O. C. Jones	A. W. Pfeiffer	J. J. Thomas
R. T. Kirkman	Hobart Rayburn	R. Van Bever, Jr.
J. F. Ladd	Harry C. Records	W. G. Williams
Leslie Larrimore	L. K. Rice	
Robert E. Lee	Wade H. Riley	—49

Mr. Hammons moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Conway moved that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was disagreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

W. T. Baker	M. T. McCarthy	Joe E. Robinson
B. F. Bedford	W. F. McGary	John C. Robinson
Douglas Bolling	D. T. Matlack	Carl Scheben
Roscoe Claxon	Duke Mayfield	P. L. Sidebottom
Roy Conway	W. H. Miller	Chester D. Silvers
James Garnett, Jr.	Tyler Munford	S. J. Wagner
Eugene Gough	Mel Petry	Joseph L. Wall
W. L. Hampton, Jr.	J. C. Ramey	Henry Ward

—24

Those who voted in the negative were—

Henry H. Allen	Ferd A. Gnau	W. E. Mull
H. T. Baker	Ben Grogan	J. C. Nickell
G. M. Ballard	Jas. T. Hamilton	Russell O'Neill
Reuben J. Boling	C. L. Hammons	A. W. Pfeiffer
Ollie J. Bowen	Thomas W. Hines	Hobart Rayburn
V. O. Chandler	Price Holbrook	Harry C. Records
Floyd Clark	Ira W. Hulette	L. K. Rice
George S. Clay	J. H. Jones	W. T. Rollo
Herbert Cook	O. C. Jones	Ray O. Shehan
Stanley S. Dickson	R. T. Kirkman	Bruce Sloan
George W. Dunlap	J. F. Ladd	Henry Stewart
Howard G. Early	Leslie Larrimore	Dr. H. S. Swope
Walter R. Fannin	Robert E. Lee	W. R. Tapp
T. P. Fitzpatrick	Lloyd MacDonald	J. J. Thomas
H. Myer Garner	Elmer McGlothen	W. G. Williams
G. W. Garrett	G. S. Milam	—47

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Floyd Clark	Ferd A. Gnau
Henry H. Allen	Herbert Cook	Ben Grogan
C. W. Anderson, Jr.	Sam Dever	Jas. T. Hamilton
H. T. Baker	George W. Dunlap	C. L. Hammons
W. T. Baker	Howard G. Early	Thomas W. Hines
G. M. Ballard	Walter R. Fannin	Price Holbrook
Reuben J. Boling	T. P. Fitzpatrick	Clyde S. Howard
Jas. C. Carter	H. Myer Garner	Ira W. Hulette
V. O. Chandler	G. W. Garrett	O. C. Jones

R. T. Kirkman	Russell O'Neill	H. C. Steely
J. F. Ladd	A. W. Pfeiffer	Henry Stewart
Leslie Larrimore	Hobart Rayburn	Dr. H. S. Swope
Robert E. Lee	Harry C. Records	W. R. Tapp
T. B. McConnell	L. K. Rice	J. J. Thomas
Lloyd MacDonald	W. T. Rollo	R. Van Bever, Jr.
Elmer McGlothen	A. W. Ross	W. G. Williams
W. E. Mull	Ray O. Shehan	
J. C. Nickell	Bruce Sloan	—52

Those who voted in the negative were—

B. F. Bedford	J. H. Jones	Joe E. Robinson
Douglas Bolling	M. T. McCarthy	John C. Robinson
Ollie J. Bowen	W. F. McGary	Carl Scheben
Wallace Brown	D. T. Matlack	Dr. B. F. Shields
Roscoe Claxon	Duke Mayfield	P. L. Sidebottom
George S. Clay	G. S. Milam	Chester D. Silvers
Roy Conway	Tyler Munford	S. J. Wagner
James Garnett, Jr.	Mel Petry	Joseph L. Wall
Eugene Gough	J. C. Ramey	Henry Ward
W. L. Hampton, Jr.	Wade H. Riley	Charles Wylie
		—30

The Clerk announced the following pair: Mr. Bedford and Mr. Ross. Mr. Bedford, if voting would vote no; Mr. Ross, if present and voting, would vote aye.

Mr. Bedford raised the point that during the call of the roll, Mr. Ross' presence was noted and that his vote was cast in the affirmative and that he desired to be recorded as voting in the negative.

Mr. Bedford was then recorded as voting in the negative.

Mr. Garnett offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 16 by adding the following:

"This bill shall be known and referred to as The Carter-Tackett Act."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Nickell moved that the vote by which said bill was passed be reconsidered, and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 2. An Act exempting building and loan associations organized under the laws of this state and under the laws of the United States from the payment of income tax upon the entire net income of such corporations.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill, duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Dr. Shields moved that the House do now resolve itself into a Committee of the Whole House for the purpose of holding a hearing and considering a bill entitled:

H. B. 18. An Act supervising and regulating the production, sale, etc., of tobacco.

Said motion was disagreed to.

Mr. Milam moved that a resolution entitled:

S. Res. 9. Resolution providing for *sine die* adjournment of the General Assembly on January 16, 1937.

Be made a Special Order of the Day for Friday, January 15, at ten o'clock A. M.

Said motion was disagreed to.

Mr. Milam moved that the aforesaid Senate Resolution No. 9 be made a Special Order of the Day for Friday, January 11, at eleven o'clock A. M.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Milam and Munford, were as follows, viz.:

Those who voted in the affirmative were—

H. T. Baker W. T. Baker G. M. Ballard

B. F. Bedford	Jas. T. Hamilton	J. C. Ramey
Reuben J. Boling	C. L. Hammons	Hobart Rayburn
Douglas Bolling	Thomas W. Hines	Wade H. Riley
Wallace Brown	Price Holbrook	Joe E. Robinson
Jas. C. Carter	Clyde S. Howard	John C. Robinson
Roscoe Claxon	J. H. Jones	Ray O. Shehan
George S. Clay	R. T. Kirkman	P. L. Sidebottom
Roy Conway	J. F. Ladd	H. C. Steely
Herbert Cook	Leslie Larrimore	Henry Stewart
Harry Davis	Robert E. Lee	Dr. H. S. Swope
Sam Dever	M. T. McCarthy	R. Van Bever, Jr.
Howard G. Early	Lloyd MacDonald	Joseph L. Wall
Walter R. Fannin	Elmer McGlothen	Henry Ward
T. P. Fitzpatrick	G. S. Milam	Charles Wylie
James Garnett, Jr.	Tyler Munford	
G. W. Garrett	A. W. Pfeiffer	—49

Those who voted in the negative were—

Ollie J. Bowen	Ira W. Hulette	A. W. Ross
V. O. Chandler	O. C. Jones	Carl Scheben
George W. Dunlap	T. B. McConnell	Dr. B. F. Shields
Ferd A. Gnau	C. S. Matherly	J. J. Thomas
Ben Grogan	W. H. Miller	
W. L. Hampton, Jr.	J. C. Nickell	—16

Mr. Milam moved that the vote by which said resolution was made a Special Order of the Day for Friday, January 15, at eleven o'clock A. M., be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Speaker announced that he had referred a bill and resolution which originated in the Senate, as follows, viz.:

S. Res. 9. To Committee on Kentucky Statutes No. 1.

S. B. 5. To Committee on Public Utilities.

Mr. Claxon moved that the House do now resolve itself into a Committee of the Whole House for the purpose of holding a hearing on the Tobacco Control Act.

Said motion was agreed to.

Thereupon the Speaker vacated the Chair and designated Dr. Shields as chairman of the Committee of the Whole House.

The hour of three o'clock P. M. having arrived, that being the hour under the Rules of this House for adjournment, the House stood adjourned.

MONDAY, JANUARY 11, 1937.

The House was opened with prayer by the Reverend Adams of the First Christian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	George S. Clay	Jas. T. Hamilton
Henry H. Allen	Herbert Cook	C. L. Hammons
C. W. Anderson, Jr.	Harry Davis	W. L. Hampton, Jr.
W. T. Baker	Sam Dever	Thomas W. Hines
G. M. Ballard	Stanley S. Dickson	Price Holbrook
B. F. Bedford	George W. Dunlap	Clyde S. Howard
Reuben J. Boling	Howard G. Early	Ira W. Hulette
Douglas Bolling	Garland Embry	John M. Hunnicut
Ollie J. Bowen	Walter R. Fannin	Ben W. Johnson
Wallace Brown	Chas. P. Farnsley	J. H. Jones
Dr. R. A. Byers	James Garnett, Jr.	O. C. Jones
Jas. C. Carter	G. W. Garrett	R. T. Kirkman
V. O. Chandler	Ferd A. Gnau	J. F. Ladd
Roscoe Claxon	Eugene Gough	Leslie Larrimore

Robert E. Lee	Rodes K. Myers	Ray O. Shehan
M. T. McCarthy	J. C. Nickell	Dr. B. F. Shields
T. B. McConnell	Russell O'Neill	P. L. Sidebottom
J. L. McDermott	Mel Petry	Chester D. Silvers
Lloyd MacDonald	A. W. Pfeiffer	Bruce Sloan
W. F. McGary	J. C. Ramey	H. C. Steely
Elmer McGlothen	Hobart Rayburn	Henry Stewart
John Marshall	Harry C. Records	Dr. H. S. Swope
C. S. Matherly	L. K. Rice	W. R. Tapp
D. T. Matlack	Wade H. Riley	J. J. Thomas
Duke Mayfield	Joe E. Robinson	S. J. Wagner
G. S. Milam	John C. Robinson	Henry Ward
W. H. Miller	W. T. Rollo	W. G. Williams
John B. Mollett	A. W. Ross	Charles Wylie
W. E. Mull	Carl Scheben	
Tyler Munford	Carl Schneider	

Mr. Gnau moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Dr. Shields moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Pfeiffer moved that the privilege of the floor be extended to Mr. Melvin Westerfield.

Said motion was agreed to.

Mr. Hines moved that the privilege of the floor be extended to Messrs. J. R. Hines and J. R. Phelps.

Said motion was agreed to.

Mr. W. T. Baker moved that the privilege of the floor be extended to Mr. A. C. McMakin and Mr. Richard Duncan.

Said motion was agreed to.

Mr. Rice moved that the privilege of the floor be extended to Mr. Elmer Greene, Mr. and Mrs. Welden Brandenburg, and Mrs. Al Parks.

Said motion was agreed to.

Mr. McConnell moved that the privilege of the floor be extended to Mr. Billie Gresham.

Said motion was agreed to.

Mr. Gnau moved that the privilege of the floor be extended to Messrs. Richard Stites and Fred Parmalee.

Said motion was agreed to.

Mr. Garnett moved that a bill entitled:

H. B. 15. An Act to provide for the registration of trade-marks, with the Secretary of State, etc.

Be recommitted to the Committee on Trade and Commerce and that said bill retain its place in the Orders of the Day.

Said motion was agreed to.

The Clerk read the following message from the Governor, viz.:

WHEREAS, Both houses of the Congress of the United States by a constitutional majority of two thirds thereof has

adopted a joint resolution proposing to amend the Constitution of the United States in such manner as to authorize Congress to limit, regulate and prohibit the labor of persons under eighteen years of age; and

Whereas, The General Assembly of the Commonwealth of Kentucky should have an opportunity immediately to ratify the said amendment: Now Therefore,

In order that the General Assembly may consider the ratification of said amendment, according to the power vested in me by the Constitution of Kentucky, *I do issue this my proclamation* amending the proclamation convening the General Assembly of Kentucky in extraordinary session at the seat of government in Frankfort, Kentucky, at one o'clock P. M., on Wednesday, December 23, 1936, by adding the following item thereto.

29. To enact a joint resolution ratifying the proposed amendment to the Constitution of the United States providing that Congress shall have power to limit, regulate and prohibit the labor of persons under eighteen years of age.

Given under my hand this the 8th day of January, 1937.

By the Governor:

A. B. CHANDLER,
Governor of Kentucky.

(Seal.)

CHAS D. ARNETT,
Secretary of State.

WHEREAS, The present statute concerning prison-made goods is inadequate to protect free labor; and

Whereas, in the light of technical developments the laws governing the operation of trucks on the highways are obsolete; and

Whereas, the increase in the prices of food and other necessities has rendered the budgetary provision for the Department of Welfare insufficient; and

Whereas, an emergency has been created by uncertainty as to the interpretation of the provisions of the alcoholic beverage tax act respecting taxation of sales of beverages for delivery outside the Commonwealth of Kentucky; and

Whereas, employment conditions in the health and welfare departments of cities of the first class urgently require legislation to make possible the handling of this problem on a purely merit basis; and

Whereas, existing conditions surrounding highway accidents, road house operation and operation of alcoholic beverage dispensaries are such as not adequately to safeguard the health, safety and morals of the community: Now, Therefore,

In order that the General Assembly may consider measures providing the needed adjustments in the statutes respecting the matters set out herein, according to the power vested in me by the Constitution of Kentucky, *I do issue this my proclamation* amending the proclamation convening the General Assembly of Kentucky in extraordinary session at the seat of government in Frankfort, Kentucky, at one o'clock P. M., on Wednesday, December 23, 1936, by adding the following items thereto:

23. To enact legislation restricting sale and distribution of prison-made goods.

24. To enact legislation providing for regulation of trucks as to weight and length.

25. To enact legislation providing for an additional appropriation of charitable and eleemosynary institutions, not to exceed $300,000.

26. To enact legislation defining clearly the conditions under which alcoholic beverages may be exported from Kentucky free of the tax imposed in Chapter 1 of the Acts of the General Assembly, Third Special Session of 1936.

27. To enact legislation providing for the merit system for employees in the health and welfare departments of cities of the first class.

28. To enact legislation requiring the policing of highway accidents, of the operation of road houses and of the conduct of alcoholic beverage dispensaries, and providing for the compensation of officers charged with the performance of such police service.

Given under my hand this 8th day of January, 1937.

By the Governor:

A. B. CHANDLER,
Governor of Kentucky.

(Seal.)
CHAS. D. ARNETT,
Secretary of State.

Mr. Silvers offered the following resolution, viz.:

H. Res. 14. Resolution expressing gratitude for the proposed presentation of an Art Gallery by Andrew W. Mellon to the United States.

Said resolution is as follows, viz.:

H. Res. 14. WHEREAS, It has come to the notice of the people of this Commonwealth that the Honorable Andrew W. Mellon, of Pittsburgh in the Commonwealth of Pennsylvania, and a former Secretary of the United States Treasury, has very graciously offered to give to the people of America his world famous collection of fine paintings and other wonderful works of art, and in order to preserve said collection to the people, he has also offered to donate vast sums of money for the construction and maintenance of a National Art Museum; and

Whereas, His Excellency, Franklin D. Roosevelt, President of the United States has heretofore expressed to Mr.

Mellon the gratitude of our people for so noble a gift, and referred the matter of acceptance to the Congress of the United States; and

Whereas, The value to ourselves and to posterity of such a gift is without limit: Now, Therefore,

Be it Resolved, by the House of Representatives of the Commonwealth of Kentucky, the Senate thereof Concurring therein, the same being in extraordinary session, That all Kentuckians feel the deepest sense of gratitude to Hon. Andrew W. Mellon for his public beneficence in offering to the people of the United States his wonderful collection of art and we do respectfully request the Congress to duly accept said gift on behalf of the people.

Be it Further Resolved, That copies of this resolution, properly attested by the Clerk of this House be sent to His Excellency, Franklin D. Roosevelt, President of the United States, Honorable Andrew W. Mellon, the Honorable Governor of the Commonwealth of Pennsylvania, and to the Honorable Mayor of the City of Pittsburgh, Pennslyvania.

Said resolution was adopted.

Upon a call of the Counties and Legislative Districts, the following resolutions and bills were introduced, ordered printed and referred as follows, viz.:

By Mr. Hulette:

H. Res. 15. JOINT RESOLUTION for the benefit of the Ministers of the Churches of Frankfort, Kentucky.

Said resolution is as follows, viz.:

Whereas, at the invitation of the General Assembly of Kentucky the ministers of the various churches of the city of Frankfort have officiated at the opening of the daily sessions

of the General Assembly during the regular sessions of 1936 and during each special session, including the current special session:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the sum of One Hundred ($100.00) Dollars to each of the following named ministers hereby is appropriated, allowed and directed to be paid, namely:

Rev. R. B. Kelly,
Rev. Joseph A. O'Dwyer,
Rev. Hampton Adams,
Rev. A. G. Stone,
Rev. Olof Anderson,
Rev. Alexander M. Warren,
Rev. Ross E. Dillon.

The Clerk of the House is directed to prepare certification in favor of each of the above named ministers for the sum of $100.00 as compensation for their services, and present or cause same to be presented to the Auditor of Public Accounts, who will draw his warrant upon the State Treasurer in favor of each of the above named ministers for the sum of $100.00, and pay same out of and charge same to the appropriation made by House Bill No. 5, enacted by the present session of the General Assembly and approved by the Governor, the same being allowed and approved as a contingent expense of the present special session of the General Assembly.

To Committee on Appropriations No. 1.

By Mr. Scheben:

H. Res. 16. A JOINT RESOLUTION, ratifying the proposed amendment to the Constitution of the United States to authorize Congress to limit, regulate and prohibit the labor of persons under eighteen years of age.

Said resolution is as follows, viz.:

Whereas, Both Houses of the Congress of the United States of America by a constitutional majority of two-thirds thereof made the following proposition to amend the Constitution of the United States of America, in the following words, to wit:

"JOINT RESOLUTION, proposing to amend the Constitution relating to the limiting, regulation and prohibition of the labor of persons under 18 years of age:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled*

"Two-thirds of each House concurring therein, that the following Article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution, when ratified by the Legislature of three-fourths of the several states.

"Section 1. That Congress shall have power to limit, regulate and prohibit the labor of persons under 18 years of age.

"Section 2. The power of the several states is unimpaired by this Article, except that the operation of the State laws shall be suspended to the extent necessary to give effect to legislation enacted by Congress therefore."

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the foregoing and above recited amendment to the Constitution of the United States of America be and the same is hereby ratified by the General Assembly of the Commonwealth (State) of Kentucky as an amendment to the Constitution of the United States.

§ 2. That the Governor of the Commonwealth of Kentucky forthwith forward to the Secretary of State of the United States an authenticated copy of the foregoing Joint Resolution.

To Committee on Kentucky Statutes No. 1.

By Mr. Tapp:

H. B. 20. An Act providing for a supplementary appropriation for the Department of Welfare for the fiscal year for 1936-1937.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

There is hereby appropriated out of the General Expenditure Fund for the use of the Department of Welfare in the fiscal year 1936-1937 for salaries, clerical hire, traveling expenses, printing, stamps and necessary supplies for said Department, and the cost of operation, maintenance, improvements, repairs and all operating expenses for the State Reformatory, at Frankfort; the State Penitentiary, at Eddyville; Western State Hospital for the Insane, at Hopkinsville; Central State Hospital for the Insane, at Lakeland; Eastern State Hospital for the Insane, at Lexington; Institution for the Feeble-Minded, at Frankfort; the Houses of Reform, at Greendale, and such other institutions, or branch institutions, as may hereafter be established, and for the administration and operation of the division of child welfare, the laboratory of criminal identification and statistics, the Probation and Parole Act, the sum of $300,000.00.

To Committee on Appropriations No. 1.

By Mr. Gnau:

H. B. 21. An Act relating to certain officers and employees of the Department of Public Health and the Department of Public Welfare of cities of the first class and providing for the appointment and compensation of certain mem-

bers of the Department of Public Health and Department of Public Welfare; for the creation of a personnel commission of four appointed members, with the Mayor as a member *ex officio,* with power to vote and the appointment, qualification, terms of office, removability and compensation of the appointed members of the said commission; for the levying and assessment of taxes to support of said commission and defining the rights, powers and duties of said commission, and providing for the organization and administration of the said departments and making the violation of the provisions of this act a misdemeanor and providing penalties for the violation thereof and fixing the time when the changes provided for herein shall become effective; providing for disciplinary measures applicable to the enforcement of this act and providing for a merit system of employment in the Department of Public Welfare and Public Health in cities of the first class; providing for a method of extending the provisions of this act to other departments and agencies of cities of the first class by aldermanic action; making the provisions hereof effective on other departments and agencies of the said cities when extended by aldermanic action; defining certain terms used in this act; providing a method of extending the provisions of this act to include additional positions in the Department of Public Health and Department of Public Welfare; prohibiting the making or soliciting of political contributions by the employees in positions subject to the provisions of this act; providing for maintaining the validity of the remainder of the act in case any part shall be declared invalid, and providing for the repeal of any acts or parts of acts in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* The term "emergency appointment,"

as used in this act, shall be held to mean any appointment to any position subject to the provisions of this act, which may be made only in the absence of an appropriate eligible list for the position and which may be made without competitive examination pending the establishment of an eligible list and which appointment shall not exceed the duration of the emergency and in no case to exceed ninety days in any one fiscal year.

The term "probationary appointment," as used in this act, shall be held to mean an appointment to any position subject to the provisions of this act, which shall be made in accordance with the provisions of Section 5 of this act and which shall not be less than six months nor more than one year in duration.

The term "regular appointment," as used in this act, shall be held to mean an appointment to a position subject to the provisions of this act made after an employee has served a probationary period in a manner deemed satisfactory to his department head.

The term "personal commission," as used in this act, shall be held to mean the agency established by this act, including the governing body of five personnel commissioners, the personnel director, and such other assistants as may be employed by such agency in carrying out the provisions of this act.

The term "personnel commissioner," as used in this act, shall be held to mean a member of the governing body of the personnel commission as provided for in Section 2 of this act.

The term "personnel director," as used in this act, shall be held to mean the chief administrative officer of the personnel commission as provided for in Section 3 of this act.

The term "appointing authority," as used in this act, shall be held to mean the department or agency head having

the power of appointment or removal from positions as provided for in this act.

The term "competitive examination," as used in this act, shall include consideration and rating of any or all of the following qualifications of applicants: Education, training, experience, general adaptability, special aptitude, physical fitness, knowledge, skill, personality, character and such other qualifications as may be deemed necessary for the satisfactory performance of the duties of the respective positions.

The term "eligible list," as used in this act, shall be held to mean a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions as provided for in this act.

The term "service ratings," as used in this act, shall be held to mean the evaluation of the efficiency and general worth of employees in positions subject to the provisions of this act as determined by the department or agency head in the department or agency in which the employee is employed.

The term "dismissal," as used in this act, shall be held to mean the discharge of the employee by the department or agency head.

The term "lay-off," as used in this act, shall be held to mean the separation of an employee from the service because of a reduction of force owing to decreased work or decreased funds in the department or agency in which the employee has been employed.

The term "class" or "class positions," as used in this act, shall be held to mean a position or group of positions subject to the provisions of this act sufficiently similar in duties, responsibilities and qualification requirements to be designated by the same title and placed within the same salary range.

The term "reinstatement," as used in this act, shall be held to mean the re-appointment of a person who formerly

held a position, subject to the provisions of this act, to such former position or to any other position in the same class.

The term "transfer," as used in this act, shall be held to mean a change by an employee from one position to another within the same class.

The term "promotion," as used in this act, shall be held to mean a change from a position in a lower class to a position in a higher class involving an increase in responsibility or a change in title.

The term "demotion," as used in this act, shall be held to mean a change from a position in a higher class to a position in a lower class involving a decrease in responsibility or a change in title.

The term "suspension," as used in this act, shall be held to mean the separation of an employee from the service for a temporary or fixed period of time, which separation is inflicted upon the employee by his appointing authority, as a disciplinary measure under the rules established by the personnel commission.

§ 2. *Appointment, Qualification, Compensation, Tenure, Removal and Meetings of the Personnel Commissioners.* There shall be created and established in cities of the first class class a personnel commission to be governed by a board of five commissioners, said board to be composed of two members to be appointed by the Board of Trustees of the largest municipal university located in the said city, two members to be appointed by the Board of Education of said city and the Mayor of the said city shall be a member of the said commission *ex officio*. Each personnel commissioner appointed hereunder shall serve for a term of four years except for those first appointed under this act, which shall be for terms of one, two, three and four years respectively. The Board of Trustees of the largest municipal university of said city shall appoint those personnel commissioners whose terms expire at

the end of the first and third years respectively and shall appoint all successors to such personnel commissioners. The Board of Education of said city shall appoint those personnel commissioners whose terms expire at the end of the second and fourth years and shall appoint all successors to such personnel commissioners.

Provided further, however, any personnel commissioner appointed to fill the vacancy for any unexpired term shall be appointed only for the remainder of such unexpired term. Any personnel commissioner appointed according to the provisions of this act shall be eligible for reappointment. A personnel commissioner may be removed during his term of office by the authority by whom he was appointed.

Members of the personnel commission shall be at least twenty-five years of age and shall have been residents and voters in the county in which said city is located for at least three years and no member of the said board shall be eligible for any appointive or elective office of the said city during the time he serves as a member of the said board. Each personnel commissioner may be paid a salary not to exceed a per diem allowance of Ten Dollars for each meeting attended. Provided, however, that the annual allowance of any one commissioner shall not exceed Three Hundred ($300.00) Dollars.

The personnel commissioners shall hold at least one regular meeting each month and may hold such additional meetings as may be required.

§ 3. *Personnel Director—Appointment, Duties and Compensation.* The personnel commissioners shall employ a personnel director, which personnel director shall be a person thoroughly in sympathy with the merit system and with the administration of personnel, and skilled therein, and shall be a person of recognized character and ability.

The personnel director may be removed only for cause and after public hearing by the personnel commissioners and

after at least ten days notice shall have been given to the said director, which notice shall contain a copy of charges preferred against him.

The compensation of said personnel director shall be fixed by the personnel commissioners and approved by the legislative body of said city. The personnel director shall set up and direct the actual work of the personnel commission and perform such other functions as may be required of him by the personnel commissioners and shall appoint such assistants to the administrative staff of the personnel commission as may be necessary to carry out the provisions of this act.

§ 4. *Rules to be Promulgated; Reports by Commission; Classification of Positions; Competitive Examinations; Selection of Employees; Promotions.* The personnel commission shall, after public notice and hearing, make, promulgate and, when necessary, amend rules for the appointments, transfer, laying-off, reinstatement, promotion, demotion, discharge and suspension of all employees of the personnel commission and of the Department of Public Health and Public Welfare (excepting however, the Director of Public Health and his private secretary, the Director of Public Welfare and his private secretary, resident medical staff, University visiting staff and student nurses) which employees hold positions requiring technical training, special experiences and administrative responsibilities as set forth in this act, or included under its provisions by appropriate action of the Board of Aldermen of such cities; and for the classification of such employees for appointment, promotion and transfer and shall report its proceedings and rules to the legislative body, the Mayor and the Director of Public Welfare and the Director of Public Health. Such rules shall, among other things, provide:

(a) For the standardization and classification of such positions and employments in said departments, agencies and commission, which positions and employments require technical training, special experience or administrative responsi-

bilities and the classification thereof into groups and subdivisions to be based upon and created according to the respective duties and responsibilities thereof and shall be so arranged as to promote the filling of the higher grade as far as practicable by promotion. The salary range shall be uniform as to the same standardization or classification;

(b) For open competitive tests to ascertain the relative fitness of all applicants for appointment to said positions or employments in the said departments, agencies and commissions, and such tests shall be practicable and relate to matters which will fairly measure the relative fitness of candidates to to discharge the duties of the positions to which they seek appointment. Notice of such tests shall be given not less than ten days in advance by public advertisement in at least one newspaper of general circulation in the city and by posting notices in the City Hall;

(c) For the creation of eligible lists upon which shall be entered the names of successful candidates in the order of their standing through examination; and, for the filling of places in said departments, agencies and commission by the heads thereof who shall select from not more than three candidates graded highest on such eligible list, which list shall remain in force not longer than one year. In the absence of any appropriate eligible list any position may be filled temporarily by the head of the department, agency or commission in which such position is to be filled, without examination, for a period not to exceed ninety days, during which time the personnel commission shall hold the necessary examination for the filling of the place regularly, but persons may be temporarily employed for emergency work without examination for the period of the emergency, in no event to exceed ninety days in any one fiscal year, such appointment to be an emergency appointment and the same shall not be renewed. No person shall be appointed or employed under any title not appropriate to the duties to be performed and no person shall

be transferred to or assigned to perform any position subject to competitive tests unless he shall have been appointed to the position from which transfer is made as a result of an open competitive test equivalent to that required for the position to be filled. Each list of eligibles with the respective grades shall be open to public inspection. Any person appointed from the eligible list and laid off for lack of work or lack of appropriation shall be placed at the head of the eligible list and shall be eligible for re-appointment for a period of eligibility as provided by the rules of the board;

(d) For a period of production not exceeding twelve months nor less than six months before an appointment or employment is made a regular appointment;

(e) For reinstatement on the eligible list of persons who, without default or delinquency, are separated from the service;

(f) For promotion from the lower grades to the higher based on records of efficiency and seniority to be furnished by the department, agency or commission in which the person is employed and kept by said personnel commission, or upon competitive promotion tests, or both.

§ 5. *Appointments—Probationary, Regular and Emergency.* All appointments to the positions subject to the provisions of this act shall be made solely on the basis of merit and fitness, to be determined by competitive examinations, except in the case of emergency appointments which may be made only in accordance with the definition given in Section 1; provided that all original appointments, except emergency appointments as defined in Section 1 of this act, shall be probationary appointments for a period of not less than six nor more than twelve months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by their respective department, agency or commission head.

In the case of emergency appointments as defined in Sec-

tion 1 of this act, all appointments to positions subject to the provisions of this act, shall be made by appointing authorities only from an eligile list certified by the personnel commissioner as qualified and eligible for appointment from an appropriate eligible list as defined in Section 1 of this act.

§ 6. *Dismissals and Demotions.* Dismissals or demotions of employees in positions subject to the provisions of this act may be made only by the appointing authority upon the filing of written statements of the reasons of such dismissals or demotions with the personnel commission, provided that copies of all such statements shall be furnished to the employee so dismissed or demoted, on or before the effective date of such dismissal or demotion, provided further that employees holding probationary appointments may be dismissed without the appointing authority being required to furnish either the personnel commission or the dismissed or demoted employee with a written statement of the reasons for such dismissal or demotion.

The personnel commission shall investigate and determine the justification for all dismissals or demotions reported according to the provisions of this section and shall make recommendations according to its findings, approving or disapproving the dismissal or demotion so reported. If the personnel commissioners disapprove any such dismissal or demotion they shall recommend the reinstatement or transfer of such dismissed or demoted employee. Copies of the recommendations of the personnel commissioners shall be given to the appointing authority making the dismissal or demotion and to the dismissed or demoted employee.

The appointing authority receiving such a recommendation shall have the option of either accepting or rejecting such recommendation, providing that all such recommendations made by the personnel commissioners shall be public records, and providing further that the personnel commissioners may reinstate a dismissed or demoted employee over the action of

the appointing authority only in case it appears after a proper investigation that the dismissal or demotion was made for religious or political reasons.

The personnel commission, in investigating the dismissal or demotion of employees subject to the provisions of this act, shall have the power to subpoena and require attendance of witnesses to give testimony and to administer oaths to such witnesses.

Nothing in this act shall permit the dismissal or demotion of any employee subject to the provisions of this act on account of religious faith or political affiliation.

§ 7. *Other Functions of the Personnel Commission.* The personnel commission shall perform such other functions as may relate to the efficiency of the personnel under its jurisdiction, including the maintenance of the personnel classification plan and the administration of service ratings, attendance record, training programs, promotions, transfers, layoffs, suspensions, reinstatements and related activities. The personnel commissioners shall prepare rules for the administration of these functions, and shall make an annual report to the mayor of activities of the personnel commission together with recommendations concerning personnel policies, which report shall constitute and be a public record open to inspection by interested citizens and taxpayers.

§ 8. *Extension of Act to Other Positions, Departments or Agencies.* The provisions of this act may be extended by city ordinance to include additional positions or classes of positions in the Department of Health and the Department of Welfare and in any other departments of cities of the first class except the Divisions of Police and Fire in the Department of Safety. And it is further provided that any independent agency of the city government may adopt the provisions of this act for such positions or classes of positions in such agency as the governing body of such agency may designate, and when the provisions hereof shall have been so ex-

tended by city ordinance of by action of the governing body of any independent agency then all of the provisions of this act shall be applied to such positions in such departments or agencies the same as if originally included herein; the effective date of any extension of the provisions of this act to include additional positions or classes of positions shall be considered as the effective date of this act for such positions or classes of positions.

Employees holding positions subject to the provisions of this act on the effective date hereof shall be considered as having satisfied all of the qualifications for obtaining original appointments under this act and shall be considered as having been given probationary appointments as defined in Section 1 of the act as of the effective date of the act.

§ 9. *Prohibition of and Penalty for Political Activity and Contributions.* No person in the competitive service shall directly or indirectly solicit or remit funds or in any manner be concerned with the soliciting for or remitting funds to any political party or any candidate for public office; nor shall any person take any active part in political campaigns or be a member of any campaign committees or governing committees of any political organization. Nothing herein contained, however, shall be construed so as to prevent the personnel commission from making more stringent rules and regulations relative to political activity or participation on the part of the employees subject to the provisions of this act.

Any violation of this section shall operate to forfeit the office or position held by the person violating the same and shall render any such person ineligible to any municipal office or position in said city coming under the provisions of this act for a period of one year.

§ 10. *Penalties.* Any person who shall willfully, knowingly or through culpable negligence violate any of the provisions of this act, shall be guilty of a misdemeanor and shall upon conviction thereof be subject to a fine of not less than

fifty dollars nor more than five hundred dollars; provided that the provisions of this section shall not apply to Section 9 of this act.

§ 11. *Appropriations.* The legislative body of each city of the first class shall pass such ordinances, levy such taxes and provide such appropriations as are necessary to make this act effective.

§ 12. *Validity.* Should any section, paragraph, sentence, clause or phrase of this act be declared unconstitutional or invalid for any reason, the remainder of said act shall not be affected thereby.

§ 13. *Date of Effect.* The act shall become effective as soon as possible after its passage and approval, but in no event later than January 1, 1938.

To Committee on County and City Courts.

By Mr. Myers:

H. B. 22. An Act relating to the office of sheriff, providing additional duties, powers and compensation therefor; repealing all parts of Sections 3780, 3781, 3782, 3783, 384, 3785 and 3786, Kentucky Statutes, Carroll's 1930 and 1936 Editions, except those parts in each of said sections relating to patrols in counties in this Commonwealth having cities of the first and second class; and declaring that an emergency exists.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby created and established a County Highway Patrol and Investigator for each county for the Commonwealth of Kentucky, and the duties thereof shall be performed by the qualified and acting sheriff and his duly appointed and qualified deputy sheriffs in each county.

§ 2. It shall hereafter be the duty of the sheriff and his appointed and qualified deputies to patrol each public road and highway in his county, and to direct, regulate and control the traffic on said roads and highways so as to maintain a maximum degree of safety to the general public in the use thereof. He shall, as soon as he can do so, after receiving information of their occurrence, investigate all accidents, collisions and wrecks occurring upon said roads and highways, and, when possible, determine the position of each of the vehicles connected therewith immediately before and after each accident, collision or wreck, and make and record the measurement and direction and location of all tracks, marks and visible impressions made on and about the highway where accidents, collisions or wrecks have occurred that appear to have been made by the vehicles or either of them connected therewith, or by the parties owning, operating or occupying said vehicles at the time of the accident, collision or wreck that have a tendency to disclose what was the cause thereof, and to make a record in his office of his said observations and findings. He shall also ascertain, if possible, the license number of each of the vehicles connected therewith, the number of each engine and the make of each car, and the name of the state, territory, district, department and county issuing said license, and the name and address of the owner or operator of said vehicle, and the name and address of each occupant of said vehicles in said accident, collision or wreck, and the name and address of each witness thereof, and the name and address of each person who immediately thereafter came upon the ground or who saw evidence of the position of the vehicles immediately before or after the accident, collision or wreck, or who heard a statement or statements as to how or who caused the accident, collision or wreck made by the parties who owned, operated or occupied either of the vehicles connected therewith. When any person is wounded or killed, or there is reason to believe that criminal negligence or carelessness was the cause of the accident, collision or wreck, said

officer making the inspection, shall take affidavits or statements from all witnesses who have information of incriminating facts connected therewith, and for the purpose of securing said affidavits or statements, each sheriff and his authorized deputy is authorized and empowered, forthwith and upon his own initiative to issue and serve a subpoena upon said witnesses requiring them to testify, and is hereby authorized and empowered to administer an oath to each of said witnesses before testifying, and to reduce to writing said testimony, and he shall return said affidavits and statements, together with a report in writing of all information required, to the county attorney of his county and a duplicate of said report and statements or affidavits to the circuit court clerk of his county for submission to the foreman of the grand jury next to be convened in said county.

§ 3. Said sheriff or his deputies shall visit, inspect and investigate the way and manner each owner or operator of any public house, hall, pavilion, ground or place where music is furnished or permitted, or where public dancing is conducted or permitted, and also all camps, restaurants, roadhouses, or any place where intoxicating liquors are sold or furnished or permitted to be sold or furnished to the public, or where men and women are furnished rooms for lodging either in the day or the night in said county at least once each month, and to report in writing to the county attorney of his county his conclusions, together with the name and address of any witness who claims knowledge of any violation of law at said place or places or of any disturbance occurring at said place or places, and shall also file with the circuit court clerk of his county a duplicate of each of said reports, to be delivered to the foreman of the grand jury next to be convened in said county.

§ 4. Each county sheriff for the additional services herein required shall receive reasonable compensation therefor of not less than One Thousand Dollars ($1,000.00), and

not more than Two Thousand Dollars ($2,000.00), per annum, to be determined by the fiscal court of the county and paid by the treasurer thereof, provided the compensation of said officer as sheriff, together with his other compensation as sheriff, as now provided by law, shall not in any year exceed a total of Five Thousand Dollars ($5,000.00), together with the reasonable compensation of his deputy sheriffs and the expenses of his office as sheriff as now allowed by law, said additional compensation to commence from the effective date of this Act.

§ 5. All parts of Sections 3780, 3781, 3782, 3783, 3784, 3785, and 3786, Kentucky Statutes, Carroll's 1930 and 1936 Editions, except those parts in each of said sections relating to patrols in counties in this Commonwealth having cities of the first and second class are hereby repealed.

§ 6. Nothing in this Act shall be construed to affect or impair the duties or obligations of County Patrols in counties having a city of the first or second class, State Highway Patrols, Field Representatives of the Division of Motor Transportation or other officer of the state, county, city or town, not mentioned herein, irrespective of whether or not enumerated herein or similar to those enumerated herein, that are not by the terms of this Act abolished.

§ 7. Whereas, the protection of the health, safety and morals of the community require the immediate performance of the additional services herein required of each sheriff and his deputies in each county of Kentucky, an emergency is hereby declared to exist, and this Act shall become a law and be effective on its passage by the General Assembly and its approval by the Governor.

To Committee on Executive Affairs.

By. Mr. Gough:

H. B. 23. An Act to prohibit distribution, sale or ex-

change in Kentucky of goods, wares, or merchandise, manufactured in whole or in part by convicts or prisoners, except those manufactured for the use of the State in its institutions and administrative branches of its government.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That from and after the effective date of this Act, no goods, wares, or merchandise, manufactured or produced wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation) in the State of Kentucky or in any state or district, of the United States, shall be sold or offered for sale in this State, by any person, firm, association or corporation, or by any Federal authority, state or political subdivision thereof, provided, however, that nothing in this Act shall be construed to forbid the sale, exchange, or distribution of such goods, to any institution supported wholly by funds derived from public taxation, and operated under the supervision of the United States of America, the State of Kentucky, or any other State of the Union, or any political subdivision thereof, or to forbid the State of Kentucky from manufacturing automobile tags, road signs, and any other goods that said State has to furnish to any of its institutions or to any branches of its government in its administrative capacity.

Any person, firm or corporation violating the provision of this Act, shall upon conviction thereof, be fined not exceeding $1,000.00, for each separate offense, or by imprisonment for not more than six months, or both so fined and imprisoned in the discretion of the jury or court trying the case.

All laws in conflict herewith are hereby repealed and Sections 524, 525, and 526 of the 1930 Edition of Carroll's Kentucky Statutes, are hereby expressly repealed.

To Committee on Cities of the Third Class.

Dr. Shields moved that the House do now recess for forty minutes.

Said motion was agreed to.

And then the House recessed.

After a time the Speaker resumed the Chair and called the House to order.

Mr. Brown moved that the vote by which the House reconsidered and laid on the table the vote by which the House agreed to make a resolution entitled:

S. Res. 9. Resolution providing for the *sine die* adjournment of this General Assembly on Saturday, January 16.

A Special Order for Friday, January 15, at eleven o'clock A. M., be reconsidered.

Said motion was disagreed to, having failed to receive the necessary majority under the Rules of this House.

The yeas and nays being required thereon by Messrs. Milam and Munford, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Wallace Brown	Ferd A. Gnau
C. W. Anderson, Jr.	Jas. C. Carter	W. L. Hampton, Jr.
H. T. Baker	V. O. Chandler	Thomas W. Hines
W. T. Baker	Herbert Cook	Clyde S. Howard
G. M. Ballard	Stanley S. Dickson	Ira W. Hulette
Douglas Bolling	George W. Dunlap	John M. Hunnicut
Ollie J. Bowen	Chas. P. Farnsley	Ben W. Johnson

J. H. Jones	J. C. Nickell	Dr. B. F. Shields
O. C. Jones	Mel Petry	Bruce Sloan
J. F. Ladd	J. C. Ramey	Dr. H. S. Swope
M. T. McCarthy	Harry C. Records	W. R. Tapp
T. B. McConnell	L. K. Rice	J. J. Thomas
J. L. McDermott	Joe E. Robinson	S. J. Wagner
Lloyd MacDonald	John C. Robinson	Joseph L. Wall
D. T. Matlack	W. T. Rollo	W. G. Williams
Duke Mayfield	A. W. Ross	Charles Wylie
W. E. Mull	Carl Scheben	John Kirtley, Spkr.
Rodes K. Myers	Carl Schneider	—53

Those who voted in the negative were—

B. F. Bedford	James Garnett, Jr.	Russell O'Neill
Dr. R. A. Byers	C. L. Hammons	A. W. Pfeiffer
Roscoe Claxon	Robert E. Lee	P. L. Sidebottom
George S. Clay	Elmer McGlothen	H. C. Steely
Sam Dever	G. S. Milam	Henry Stewart
Howard G. Early	John B. Mollett	Henry Ward
Walter R. Fannin	Tyler Munford	—20

Mr. Garnett moved that the Rules of this House be suspended for the purpose of taking up for immediate consideration a bill entitled:

S. B. 3. An Act to authorize cities of the first class to construct law school buildings for municipal universities, etc.

Said motion was agreed to.

Thereupon the House took up for consideration from the Orders of the Day, said bill.

Said bill is as follows, viz.:

S. B. 3. An Act to authorize cities of the first class to construct law school buildings for municipal universities

where the ground for such buildings has been conveyed to the city free of cost, lien and encumbrance, providing that cities of the first class may issue bonds to defray the cost of such building. Providing that the building so erected may be leased to the municipal university for a rental sufficient to pay the bonds, the interest thereon, insurance, and all operating expenses of such building. Providing that the bonds shall be secured only by revenues derived from the rental of such building and by lien upon the land and improvements. Creating a statutory mortgage lien upon such building. Providing that such bonds shall not constitute an indebtedness of the city within the meaning of the constitutional provisions or limitations. Providing for the making of plans and specifications for such building and the approval of the municipal university therefor; providing for the deposit and security of rentals received from such building and the application of the same to the payment of bonds issued to pay for the cost of the construction of the said building. Providing when rentals sufficient to pay the cost of the erection of the said building, all operating costs, interest on the bonds the city shall thereupon convey the premises and improvements to such municipal university, and declaring an emergency to exist.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That cities of the first class of the Commonwealth are hereby authorized and empowered to establish and erect law school buildings for municipal universities existing in such cities, together with necessary appurtenances thereto, under the provisions of this act, for the purpose of supplying the municipal universities of such cities adequate buildings necessary to carry out their corporate duties and powers.

§ 2. The provisions of this Act shall be applicable only where any such municipal university shall have conveyed or caused to have been conveyed to such city, the ground neces-

sary for the erection of such law school building, which conveyance shall be made without cost to such city and the land so conveyed shall be free of all liens and encumbrances.

§ 3. For the purpose of defraying the cost of acquiring or constructing any such law school buildings and appurtenances thereto, any such city may borrow money secured by lien on the revenues derived from such building, and issue negotiable bonds, provided no such bonds shall be issued unless and until authorized by an ordinance specifying the proposed undertaking, the amount of bonds to be issued, and the maximum rate of interest such bonds are to bear, which shall not be more than six per cent per annum. Such ordinances shall further provide that the proposed law school building and appurtenances thereto are to be constructed or acquired pursuant to the provisions of this Act.

§ 4. All bonds under the provisions of this Act may be issued bearing interest at a rate not exceeding six per cent per annum, payable semi-annually, and shall be executed in such manner and be payable at such times not exceeding fifty (50) years from date thereof, and at such place or places as the Board of Aldermen of such City shall determine.

§ 5. Any and all such bonds shall have and are hereby declared to have, in the hands of *bona fide* holders, all of the qualities of negotiable instruments under the law merchant, and shall not be subject to taxation. In case any of the officers whose signatures or counter-signatures appearing on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures or counter-signatures shall, nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. Such bonds shall be sold in such manner and upon such terms as the Board of Aldermen shall deem for the best interest of such city. Such bonds when issued shall be payable solely from the revenue funds derived from such law school building, as provided in Sections 9 and 10 hereof, and shall not

constitute an indebtedness of such city within the meaning of the provisions or limitations of the Constitution of Kentucky. It shall be plainly stated on the face of such bond that same has been issued under the provisions of this Act, and that it does not constitute an indebtedness of such city within the meaning of any constitutional provisions or limitations.

§ 6. All moneys received from any bonds issued pursuant hereto shall be applied solely for the establishment or erection of such law school building and necessary appurtenances thereto; provided, such moneys may be used also to advance the payment of the interest on bonds during the first three years following the date of such bonds. And there shall be, and there is hereby, created a statutory mortgage lien upon such law school building and appurtenances to and in favor of the holders of said bonds, and each of them, and to and in favor of the holders of the coupons of said bonds.

§ 7. The law school buildings so erected, together with the appurtenances thereto, shall remain subject to such statutory lien until the payment in full of the principal and interest of the bonds. Any holder of said bonds, or any of the coupons, may either at law or in equity protect and enforce the statutory mortgage lien hereby conferred and may bring suit, action, mandamus or other proceedings to enforce and compel performance of all duties required by this Act, including the making and collecting of sufficient rents, the segregation of the income and revenue and the application thereof.

§ 8. If there be any default in the payment of the principal or interest on any of said bonds, any court having jurisdiction of the action may appoint a Receiver to administer said law school building on behalf of the city, with power to charge and collect rentals sufficient to provide for the payment of any bonds or obligations outstanding against said law school building, and for the payment of the operating expenses, and apply the income and revenues in conformity with

this Act and the ordinance referred to in Sections 9 and 10 hereof.

§ 9. When any such city shall desire to construct such law school building, the Board of Aldermen of such city shall by ordinance cause plans and specifications for the law school building to be constructed to be duly made and filed in the office of the Clerk of the Board of Aldermen, which plans and specifications shall give a full description of the building to be constructed, the details thereof and the manner of construction.

The plans and specifications of such building shall be prepared by an architect selected by the city and approved by the Board of Trustees of such Municipal University, shall be submitted to the Board of Trustees of such Municipal University for approval, and if approved, and if such Board of Trustees shall offer in writing to lease such building for a term of years from the time such building shall be completed and ready for occupancy with the right and option in such lessee to extend the term of such lease for a term of years from the expiration of the original term of such lease, and for a term of years from the expiration of such extended term of such lease until the original term of such lease shall have been extended for a total number of years not exceeding fifty (50) years, at a rental which if paid for the original term and for each of the full number of years for which the term of said lease may be extended, will amortize the total cost of the erection of said building and appurtenances, provide an adequate maintenance fund, and in addition thereto a sum sufficient to pay the cost of insuring the building erected against loss or damage by fire or windstorm or other calamity, in such sum as may be agreed by the parties thereto, but in no event shall such insurance be less than the value of the improvements, the Board of Aldermen shall by ordinance authorize the issuance of bonds in the manner and form as herein provided, sufficient to pay the cost of constructing such building and shall cause

the Clerk of the Board of Aldermen to advertise for bids, and thereafter the Board of Aldermen by and through the Mayor of such city may contract for construction of such building.

§ 10. At or before the issuance of such bonds, the Board of Aldermen of such city shall, by ordinance, set aside and pledge the income of such building into a separate and special fund to be used and applied in payment of the cost thereof and in maintenance thereof. Said ordinance shall definitely fix and determine the amount of revenue which shall be necessary and be set aside and applied for the payment of the principal and interest of the bonds; and the balance of such income shall be set aside for the reasonable and proper maintenance thereof, including a sufficient sum to pay the costs of such insurance, as hereinabove provided. The rentals to be charged for the use of such building shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same becomes due, and to provide for the maintenance thereof, including the cost of insuring such building erected against loss or damage by fire and windstorm or other calamity.

§ 11. If any surplus be accumulated in the maintenance fund which shall be equal to the cost of maintaining such building during the remainder of the calendar or fiscal year, as may be provided by the ordinance hereinbefore required, and the cost of maintaining and operating such building the succeeding like calendar or fiscal year, any excess over such amount shall be transferred to the sinking fund.

§ 12. Such city may issue refunding bonds for the purpose of providing funds for the payment of any outstanding bonds, in accordance with the procedure prescribed by this Act. Such refunding bonds shall be secured to the same extent and shall have the same source of payment as the bonds which shall have been thereby refunded.

§ 13. Should the Board of Aldermen find that the bonds authorized will be insufficient to accomplish the purpose de-

sired, additional bonds may be authorized and issued subject to the procedure as herein required.

§ 14. Such city in acquiring any building under the provisions of this Act may provide by ordinance any such provision and stipulation for the administration of the income for the security of the bondholders as the Board of Aldermen of such City may deem necessary: Provided that the sinking fund which shall be provided by ordinance as hereinbefore required shall be deposited in a depository selected by such Board of Aldermen, which desposit may, if required by the Board of Aldermen, be continuously secured by a pledge to the City of direct obligations of the United States of America, exclusive of accrued interest at all times at least equal to the balance on deposit in such account or in such other manner acceptable to the purchaser or holders of such bonds. Such securities shall either be deposited with the city or be held by a trustee or agent satisfactory to the Board of Aldermen of such city. The Board of Aldermen may by ordinance require that said sinking fund be invested in direct obligations of the United State of America.

§ 15. When the Board of Trustees of such Municipal University has paid rent in the manner and form as provided in this Act sufficient to amortize the cost of the erection of such building and appurtenances, to maintain such building and pay the cost of insurance, such city shall thereupon convey said premises to such Municipal University and shall transfer the balance, if any, remaining in the funds herein provided to the account of such municipal university.

§ 16. This Act shall be deemed to create an additional and alternate method for the construction and acquisition of law school buildings for municipal universities by any city of the first class and shall not be deemed to include, alter, amend or repeal any other statute. No proceeding shall be required for the acquisition of any law school building hereunder or the issuance of bonds hereunder except such are prescribed by

this Act, any provision in the general laws of the Commonwealth of Kentucky or Charter of any City to the contrary notwithstanding.

Whereas, cities of the class to which this Act is applicable are now without adequate buildings for the purpose of conducting law schools, thus endangering the health, safety, convenience and general welfare of students in such schools in all cities of the first class,

Now, Therefore, an emergency is declared to exist and this Act shall take effect immediately upon its passage and approval.

Mr. Garnett moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Ollie J. Bowen	Herbert Cook
C. W. Anderson, Jr.	Wallace Brown	Harry Davis
W. T. Baker	Dr. R. A. Byers	Sam Dever
G. M. Ballard	Jas. C. Carter	Stanley S. Dickson
B. F. Bedford	V. O. Chandler	George W. Dunlap
Reuben J. Boling	Roscoe Claxon	Howard G. Early
Douglas Bolling	George S. Clay	Garland Embry

Walter R. Fannin	T. B. McConnell	Joe E. Robinson
Chas. P. Farnsley	Lloyd MacDonald	John C. Robinson
T. P. Fitzpatrick	W. F. McGary	W. T. Rollo
James Garnett, Jr.	Elmer McGlothen	Carl Scheben
G. W. Garrett	John Marshall	Carl Schneider
Ferd A. Gnau	C. S. Matherly	Ray O. Shehan
Eugene Gough	D. T. Matlack	Dr. B. F. Shields
Jas. T. Hamilton	Duke Mayfield	P. L. Sidebottom
C. L. Hammons	G. S. Milam	Chester D. Silvers
W. L. Hampton, Jr.	W. H. Miller	Bruce Sloan
Thomas W. Hines	John B. Mollett	H. C. Steely
Price Holbrook	W. E. Mull	Henry Stewart
Clyde S. Howard	Tyler Munford	Dr. H. S. Swope
Ira W. Hulette	Rodes K. Myers	W. R. Tapp
John M. Hunnicut	J. C. Nickell	J. J. Thomas
Ben W. Johnson	Russell O'Neill	Joseph L. Wall
J. H. Jones	Mel Petry	Henry Ward
O. C. Jones	A. W. Pfeiffer	L. R. Wells
R. T. Kirkman	J. C. Ramey	W. G. Williams
J. F. Ladd	Hobart Rayburn	Charles Wylie
Leslie Larrimore	L. K. Rice	
M. T. McCarthy	Wade H. Riley	—85

Resolved that the title thereof be as aforesaid.

Mr. Garnett moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Gnau moved that the Rules of this House be suspended for the purpose of introducing bills and making Committee reports.

Said motion was agreed to.

Mr. Milam moved that the House do now adjourn.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Milam and Hammons, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	G. S. Milam	Ray O. Shehan
G. M. Ballard	Tyler Munford	H. C. Steely

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Those who voted in the negative were—

Henry H. Allen	Clyde S. Howard	A. W. Pfeiffer
H. T. Baker	Ira W. Hulette	J. C. Ramey
W. T. Baker	John M. Hunnicut	L. K. Rice
B. F. Bedford	Ben W. Johnson	Joe E. Robinson
Douglas Bolling	J. H. Jones	John C. Robinson
Ollie J. Bowen	O. C. Jones	W. T. Rollo
Wallace Brown	R. T. Kirkman	Carl Scheben
Jas. C. Carter	J. F. Ladd	Carl Schneider
V. O. Chandler	M. T. McCarthy	Dr. B. F. Shields
Roscoe Claxon	T. B. McConnell	P. L. Sidebottom
George S. Clay	Lloyd MacDonald	Bruce Sloan
Herbert Cook	W. F. McGary	Henry Stewart
Sam Dever	Elmer McGlothen	Dr. H. S. Swope
Stanley S. Dickson	C. S. Matherly	W. R. Tapp
George W. Dunlap	D. T. Matlack	J. J. Thomas
Howard G. Early	Duke Mayfield	S. J. Wagner
Chas. P. Farnsley	W. E. Mull	Henry Ward
T. P. Fitzpatrick	Rodes K. Myers	L. R. Wells
James Garnett, Jr.	J. C. Nickell	Charles Wylie
Ferd A. Gnau	Russell O'Neill	
W. L. Hampton, Jr.	Mel Petry	

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The following bills were introduced, viz.:

By Dr. Shields:

H. B. 24. An Act repealing, amending and re-enacting Section 14 of Chapter 1 of the Acts of the General Assembly, Third Extraordinary Session of 1936.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 14 of Chapter one of the Acts of the General Assembly, Third Extraordinary Session of 1936 is hereby repealed, amended and re-enacted so that as re-enacted it shall read as follows:

Section 14. *Sales by licensees to purchasers without the State; export stamps.* The sale or distribution of alcoholic beverages by licensees in this State to purchasers located without this State shall not be subject to the taxes imposed by this Act (1) if the purchaser is the holder of a valid permit from the Federal Government and from the State to which said alcoholic beverages are consigned, entitling him to purchase, receive and possess said alcoholic beverages, (2) if delivery of the alcoholic beverages is not made in Kentucky to the purchaser or any agent of the purchaser other than a common carrier authorized to do business in Kentucky, and (3) if the stamp required by this section has been properly affixed by the vendor.

The Department shall provide an export stamp which shall be furnished to licensed wholesalers without charge.

Alcoholic beverages in the possession of licensed wholesalers, intended for sale or distribution and shipment to purchasers located without this State, and not intended for sale or distribution by gift or sale within Kentucky, may be stamped with the export stamps above provided for and the affixing of said export stamps within twenty-four (24) hours of the time possession of said alcoholic beverages is acquired shall be deemed to satisfy the requirements of Section Five (5) of this Act.

Ordered that said bill be printed and referred to Committee on Kentucky Statutes No. 1.

By Mr. Claxon:

H. B. 25. An Act to amend Chapter 106 of the Acts of the 1932 General Assembly of the Commonwealth of Kentucky, and more particularly Sections 3, 6, and 8 thereof, being an Act to further regulate motor trucks, semi-trailer trucks, semi-trailers, and trailers and which sections are Sections 2739g-82, 2739g-85 and 2739g-87, respectively, of the Kentucky Statutes (Carroll's 1933 Supplement), by repealing the above-numbered sections of said Chapter 106 and enacting in lieu thereof sections further regulating the weight of motor trucks and semi-trailer trucks whose gross weight the compulsory use of danger signals and additional devices for the public safety in the operation of motor trucks and semi-trailer trucks on the public highways of the Commonwealth of Kentucky; and repealing all laws inconsistent therewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Chapter 106 of the Acts of 1932 of the General Assembly of the Commonwealth of Kentucky be, and the same hereby is, amended by repealing Sections 3, 6 and 8 thereof, being Sections 2739g-82, 2739g-85 and 2739g-87 of the Kentucky Statutes (Carroll's 1933 Supplement), and enacting in lieu thereof the following:

Section 2739g-82 (Section 3 of Chapter 106 of Acts of 1932). Weight.—No person shall operate on any public highway in the Commonwealth of Kentucky any motor truck or semi-trailer truck whose gross weight including load, shall exceed sixteen thousand (16,000) pounds per axle; nor shall the weight on any tire of such motor truck or semi-trailer truck exceed eight hundred (800) pounds per inch-width of tire, measured between flanges of rim. The maximum weight, including load, of any such motor truck or semi-trailer truck shall be twenty-four thousand (24,000) pounds.

Section 2739g-85 (Section 6 of Chapter 106 of Acts of 1932). Length.—No person shall operate on any public highway in the Commonwealth of Kentucky any motor truck whose length including any part of body or load shall exceed twenty-six and a half (26½) feet; nor any semi-trailer truck whose length including any part of body or load shall exceed thirty-two (32) feet.

Section 2739g-87 (Section 8 of Chapter 106, of Acts of 1932). Red Flags and Burning Danger Signals.—It shall be unlawful for any person to park a motor truck or semi-trailer truck on the traveled portion of any public highway in the Commonwealth of Kentucky outside the corporate limits of any city or town, except where such parking is caused by break-down or other unavoidable cause which prevents the operator thereof from proceeding along said highway. While any motor truck or semi-trailer truck is stopped on the traveled portion of any such highway outside the corporate limits of any city or town for a purpose other than taking on or discharging freight or complying with traffic requirements, the operator thereof shall cause to be displayed in a prominent position above the surface of the highway, at a distance of approximately three hundred (300) feet from such vehicle, in the direction from whence it was coming and also in the direction in which it was proceeding, a brilliant, burning danger or caution signal, showing a light large enough to be easily distinguished at a distance of approximately two hundred (200) feet, and which will remain lighted continuously during the time of darkness or low visibility, if such stopping occurs between one-half hour after sunset and one-half hour before sunrise, or if the weather conditions are such as to produce low visibility, and shall so place a red warning flag if such stopping occurs at any other time. In order to provide for the above every motor truck and every semi-trailer truck operating on the public highways, outside the limits of any city or incorporated town shall be equipped with at least

two such danger or caution signals and two red flags, all as above described, together with suitable holders for displaying same in a prominent place above the surface of the highway when in use.

All laws and parts of laws in conflict with any of the provisions of the above enactments, to the extent of such conflict, are hereby repealed.

Whereas, the motor transportation of this Commonwealth is being destroyed under the present regulations and the safety of the highways imperiled and the movements of tobacco and farm products retarded, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Ordered that said bill be printed and referred.

The Committees to which the same had been previously referred reported bills of the following titles, viz.:

By Mr. Howard of the Committee on Executive Affairs:

H. B. 22. An Act relating to the office of Sheriff, providing additional duties, powers and compensation therefor; repealing all parts of Sections 2780, 2781, 3782, 3783, 3784, 3785, and 3786, Kentucky Statutes, Carroll's 1930 and 1936 Editions, etc.

Without an expression of opinion.

By Mr. Myers of the Committee on Appropriations No. 1:

H. B. 20. An Act providing for a supplementary appropriation for the Department of Welfare for the fiscal year 1936-1937.

H. Res. 12. Resolution for the benefit of Ben Haskney, Kaley Barker, etc.

With a Committee amendment thereto.

H. Res. 15. A resolution for the benefit of the ministers of the churches of Frankfort.

By Mr. Brown of the Committee on Public Utilities:

S. B. 5. An Act relating to non-profit cooperative corporations and providing, but not by way of limitation, for the formation, operation, consolidation, and dissolution of non-profit cooperative corporations, etc.

By Mr. Gnau of the Committee on County and City Courts:

H. B. 21. An Act relating to certain officers and employees of the Department of Public Health and the Department of Public Welfare of cities of the first class, etc.

By Mr. Munford of the Committee on Kentucky Statutes, No. 2.

S. B. 18. An Act to amend and re-enact Sections 4883, 4887, 4893, 4932, 4933, 4934 and 4957 of Carroll's Kentucky Statutes, 1930 Edition, being Sections 4, 7, 12, 33, 50, 51 and 74 of Chapter 33, 1916 Session of the General Assembly, commonly known as the "Kentucky Workmen's Compensation Act".

By Mr. Dunlap of the Committee on Kentucky Statutes No. 1:

S. B. 2. An Act relating to revenue and taxation, and

repealing Sections 4064, 4241, 4257a, 4260-2, 4260-3, 4260-4, 4260a, 4260d-3 and 4265, Kentucky Statutes, Carroll's 1930 and 1936 Editions, and repealing, amending and re-enacting Sections 4258, 4259, 4260-1, 5260b, 4260c, 4260d-1, 4261, 4262, 4263, 4019a-13 and 4267 of said Statutes, etc.

H. Res. 16. Resolution ratifying the proposed amendment to the Constitution of the United States to authorize Congress to limit, regulate and prohibit the labor of persons under eighteen years of age.

H. B. 24. An Act repealing, amending and re-enacting Section 14 of Chapter 1 of Acts of the General Assembly, Third Extraordinary Session of 1936.

With the expression of opinion that said bills ought to pass, with the exception of the one specifically set out above.

Said bills and resolutions were severally read at length the first time and ordered to be placed on the Calendar.

Dr. Dunlap of the Committee on Kentucky Statutes No. 1 to which the same had been referred, reported a resolution entitled:

S. Res. 9. Resolution providing for the *sine die* adjournment of this General Assembly on Saturday, January 16.

With the expression of opinion that said resolution ought to pass.

Mr. H. H. Allen of the Committee on Trade and Commerce, to which the same had been recommitted, reported a bill entitled:

H. B. 15. An Act to provide for the registration of trade-marks, stamps, seals, designs, devices, patterns, etc.

Without an expression of opinion.

Ordered that said bill retain its place in the Orders of the Day.

Mr. McCarthy moved that the Sergeant-at-Arms be directed by the Speaker to assemble the committee on the Investigation of the Reorganization Bill for the purpose of requesting that they make a report to this House.

The Speaker ruled that said motion was not in order inasmuch as the committee aforesaid was a Joint Committee, composed of both members of this House and members of the Senate.

Mr. Clay moved that the House do now resolve itself into a Committee of the Whole House, for the purpose of considering a bill entitled:

S. B. 7. An Act repealing Chapter 3 of the Acts of the Third Special Session (Revenue Session) of the General Assembly of 1936, known as the Luxury Tax, etc.

Said motion was disagreed to.

Mr. Myers moved that said bill be made a Special Order of the Day, for Wednesday at two o'clock P. M.

Mr. Clay moved that said motion be amended and that said bill be made a Special Order of the Day, for Tuesday.

The Speaker ruled the amendment as made by Mr. Clay out of order inasmuch as the motion as made by Mr. Myers would, under the rules of this House, have precedence as it named the further date.

Mr. Myers then moved that said bill be taken up for immediate consideration.

Said motion was agreed to.

The yeas and nays being required thereon were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Ira W. Hulette	J. C. Ramey
Henry H. Allen	John M. Hunnicut	Harry C. Records
C. W. Anderson, Jr.	Ben W. Johnson	L. K. Rice
H. T. Baker	J. H. Jones	Wade H. Riley
W. T. Baker	O. C. Jones	Joe E. Robinson
G. M. Ballard	R. T. Kirkman	John C. Robinson
B. F. Bedford	J. F. Ladd	W. T. Rollo
Douglas Bolling	Leslie Larrimore	A. W. Ross
Ollie J. Bowen	Robert E. Lee	Carl Scheben
Wallace Brown	M. T. McCarthy	Carl Schneider
Dr. R. A. Byers	T. B. McConnell	Ray O. Shehan
Jas. C. Carter	J. L. McDermott	Dr. B. F. Shields
V. O. Chandler	Lloyd MacDonald	P. L. Sidebottom
Herbert Cook	Elmer McGlothen	Chester D. Silvers
Sam Dever	John Marshall	Bruce Sloan
Stanley S. Dickson	C. S. Matherly	Dr. H. S. Swope
George W. Dunlap	D. T. Matlack	W. R. Tapp
Garland Embry	Duke Mayfield	J. J. Thomas
Walter R. Fannin	W. H. Miller	S. J. Wagner
Chas. P. Farnsley	W. E. Mull	Joseph L. Wall
Ferd A. Gnau	Rodes K. Myers	Henry Ward
Jas. T. Hamilton	J. C. Nickell	L. R. Wells
W. L. Hampton, Jr.	Russell O'Neill	W. G. Williams
Thomas W. Hines	Mel Petry	Charles Wylie
Clyde S. Howard	A. W. Pfeiffer	—74

Those who voted in the negative were—

Roscoe Claxon	T. P. Fitzpatrick	H. C. Steely
George S. Clay	James Garnett, Jr.	
Howard G. Early	Tyler Munford	—7

Thereupon the House took up for immediate consideration from the Orders of the Day, said bill.

Said bill is as follows, viz.:

S. B. 7. An Act repealing Chapter Three of the Acts of the Third Special Session (Revenue Session) of the General Assembly of One Thousand Nine Hundred and Thirty-Six, known as the Luxury Tax and being An Act relating to Revenue and Taxation, said Act now being Section 4281d-1 to Section 4281d-25 inclusive, Carroll's Kentucky Statutes, 1936 Edition, now codified as all of said sections of Carroll's Kentucky Statutes, 1936 Edition, from Section 4281d-1 to Section 4281d-25 inclusive.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Chapter 3 of the Acts of the third extraordinary session (Revenue Session) of the General Assembly of one thousand nine hundred and thirty-six, known as the luxury tax and omnibus bill, now codified as Sections 4281d-1 to Section 4281d-25, Carroll's Kentucky Statutes, 1936 Edition, be and the same is hereby repealed. Provided, however, that the enforcement provisions of said law shall remain in full force and effect as to all taxes on account of sales made (and, in the case of cosmetics, merchandise received) prior to the effective date of this Act and which have not been collected and paid into the State Treasury at the time of the said effective date of this Act.

Mr. Joe Robinson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

The yeas and nays being required thereon were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Clyde S. Howard	J. C. Ramey
Henry H. Allen	Ira W. Hulette	Harry C. Records
H. T. Baker	John M. Hunnicut	L. K. Rice
W. T. Baker	Ben W. Johnson	Wade H. Riley
C. M. Ballard	O. C. Jones	Joe E. Robinson
Douglas Bolling	R. T. Kirkman	John C. Robinson
Ollie J. Bowen	J. F. Ladd	W. T. Rollo
Wallace Brown	Robert E. Lee	A. W. Ross
Dr. R. A. Byers	M. T. McCarthy	Carl Scheben
V. O. Chandler	T. B. McConnell	Carl Schneider
Herbert Cook	J. L. McDermott	Dr. B. F. Shields
Sam Dever	John Marshall	Bruce Sloan
Stanley S. Dickson	C. S. Matherly	Dr. H. S. Swope
George W. Dunlap	D. T. Matlack	W. R. Tapp
Chas. P. Farnsley	Duke Mayfield	J. J. Thomas
G. W. Garrett	W. H. Miller	S. J. Wagner
Ferd A. Gnau	W. E. Mull	Joseph L. Wall
Jas. T. Hamilton	Rodes K. Myers	W. G. Williams
W. L. Hampton, Jr.	J. C. Nickell	Charles Wylie
Thomas W. Hines	Mel Petry	

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Those who voted in the negative were—

B. F. Bedford	James Garnett, Jr.	Russell O'Neill
Reuben J. Boling	Eugene Gough	A. W. Pfeiffer
Roscoe Claxon	C. L. Hammons	Hobart Rayburn
George S. Clay	J. H. Jones	Ray O. Shehan
Harry Davis	Elmer McGlothen	P. L. Sidebottom
Howard G. Early	G. S. Milam	H. C. Steely
Walter R. Fannin	John B. Mollett	Henry Stewart
T. P. Fitzpatrick	Tyler Munford	Henry Ward

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Mr. Garnett moved that the House request Dr. Martin to appear before it for the purpose of presenting information

and figures to show whether the revenue derived from this bill will be necessary for the continued operation of the State Government, during the next three months.

Said motion was disagreed to.

Mr. Clay moved that the vote by which the Previous Question was ordered, be reconsidered.

Mr. Myers raised the point of order that Mr. Clay did not vote on the prevailing side when the Previous Question was ordered and was therefore out of order in making the motion to reconsider the vote by which the Previous Question was ordered.

The Speaker declared the point as raised by Mr. Myers was well taken.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Ollie J. Bowen	Sam Dever
Henry H. Allen	Wallace Brown	Stanley S. Dickson
C. W. Anderson, Jr.	Dr. R. A. Byers	George W. Dunlap
H. T. Baker	Jas. C. Carter	Howard G. Early
W. T. Baker	V. O. Chandler	Garland Embry
G. M. Ballard	Roscoe Claxon	Walter R. Fannin
B. F. Bedford	George S. Clay	Chas. P. Farnsley
Reuben J. Boling	Herbert Cook	T. P. Fitzpatrick
Douglas Bolling	Harry Davis	James Garnett, Jr.

G. W. Garrett	W. F. McGary	John C. Robinson
Ferd A. Gnau	Elmer McGlothen	W. T. Rollo
Eugene Gough	John Marshall	A. W. Ross
Jas. T. Hamilton	C. S. Matherly	Carl Scheben
C. L. Hammons	D. T. Matlack	Carl Schneider
W. L. Hampton, Jr.	Duke Mayfield	Ray O. Shehan
Thomas W. Hines	G. S. Milam	Dr. B. F. Shields
Price Holbrook	W. H. Miller	P. L. Sidebottom
Clyde S. Howard	John B. Mollett	Chester D. Silvers
Ira W. Hulette	W. E. Mull	Bruce Sloan
John M. Hunnicut	Tyler Munford	H. C. Steely
Ben W. Johnson	Rodes K. Myers	Henry Stewart
J. H. Jones	J. C. Nickell	Dr. H. S. Swope
O. C. Jones	Russell O'Neill	W. R. Tapp
R. T. Kirkman	Mel Petry	J. J. Thomas
J. F. Ladd	A. W. Pfeiffer	S. J. Wagner
Leslie Larrimore	J. C. Ramey	Joseph L. Wall
Robert E. Lee	Hobart Rayburn	Henry Ward
M. T. McCarthy	Harry C. Records	L. R. Wells
T. B. McConnell	L. K. Rice	W. G. Williams
J. L. McDermott	Wade H. Riley	Charles Wylie
Lloyd MacDonald	Joe E. Robinson	John Kirtley, Spkr.

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Resolved that the title thereof be as aforesaid.

Mr. Myers moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Gnau moved that the vote by which the House refused to reconsider the vote by which the House reconsidered and laid on the table the vote by which a resolution entitled:

S. Res. 9. Resolution for *sine die* adjournment of the General Assembly on Saturday, January 11.

Be made a Special Order of the Day, for Friday, January 15, be reconsidered.

Said motion was agreed to.

The yeas and nays, being required thereon, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Ira W. Hulette	Joe E. Robinson
C. W. Anderson, Jr.	John M. Hunnicut	John C. Robinson
W. T. Baker	O. C. Jones	W. T. Rollo
Douglas Bolling	J. F. Ladd	Carl Scheben
Ollie J. Bowen	T. B. McConnell	Carl Schneider
Wallace Brown	D. T. Matlack	Ray O. Shehan
Jas. C. Carter	W. H. Miller	Dr. B. F. Shields
V. O. Chandler	W. E. Mull	Bruce Sloan
Sam Dever	Rodes K. Myers	Dr. H. S. Swope
Stanley S. Dickson	J. C. Nickell	W. R. Tapp
George W. Dunlap	Mel Petry	J. J. Thomas
Chas. P. Farnsley	J. C. Ramey	Joseph L. Wall
W. L. Hampton, Jr.	Harry C. Records	W. G. Williams
Clyde S. Howard	L. K. Rice	—41

Those who voted in the negative were—

G. M. Ballard	G. W. Garrett	G. S. Milam
B. F. Bedford	Ferd A. Gnau	John B. Mollett
Dr. R. A. Byers	Eugene Gough	Tyler Munford
Roscoe Claxon	Jas. T. Hamilton	Russell O'Neill
George S. Clay	C. L. Hammons	A. W. Pfeiffer
Howard G. Early	Price Holbrook	Wade H. Riley
Garland Embry	J. H. Jones	P. L. Sidebottom
Walter R. Fannin	Robert E. Lee	H. C. Steely
T. P. Fitzpatrick	M. T. McCarthy	Henry Stewart
James Garnett, Jr.	Elmer McGlothen	Henry Ward
		—30

Thereafter such reconsideration, Mr. Myers moved that

the vote by which said resolution was made a Special Order for Friday, January 15, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Myers moved that said resolution be taken up for immediate consideration.

Said motion was agreed to.

Thereupon the House took up for immediate consideration said resolution.

(For resolution see House Journal of January 8.)

Said resolution was adopted.

The yeas and nays being taken thereon, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Chas. P. Farnsley	D. T. Matlack
Henry H. Allen	T. P. Fitzpatrick	Duke Mayfield
C. W. Anderson, Jr.	Ferd A. Gnau	W. E. Mull
H. T. Baker	W. L. Hampton, Jr.	Rodes K. Myers
W. T. Baker	Thomas W. Hines	J. C. Nickell
G. M. Ballard	Price Holbrook	Mel Petry
Douglas Bolling	Clyde S. Howard	J. C. Ramey
Ollie J. Bowen	Ira W. Hulette	Harry C. Records
Wallace Brown	John M. Hunnicut	L. K. Rice
Jas. C. Carter	Ben W. Johnson	Wade H. Riley
V. O. Chandler	J. H. Jones	Joe E. Robinson
George S. Clay	J. F. Ladd	John C. Robinson
Herbert Cook	M. T. McCarthy	W. T. Rollo
Sam Dever	T. B. McConnell	A. W. Ross
Stanley S. Dickson	J. L. McDermott	Carl Scheben
Garland Embry	W. F. McGary	Carl Schneider

Dr. B. F. Shields	W. R. Tapp	Charles Wylie
Bruce Sloan	J. J. Thomas	John Kirtley, Spkr.
Dr. H. S. Swope	S. J. Wagner	—56

Those who voted in the negative were—

B. F. Bedford	C. L. Hammons	A. W. Pfeiffer
Reuben J. Boling	Robert E. Lee	P. L. Sidebottom
Roscoe Claxon	Elmer McGlothen	H. C. Steely
Howard G. Early	G. S. Milam	Henry Stewart
Walter R. Fannin	John B. Mollett	Joseph L. Wall
James Garnett, Jr.	Tyler Munford	Henry Ward
Eugene Gough	Russell O'Neill	—20

Mr. Gnau moved that the vote by which said resolution was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Dickson of the Committee on Enrollment, reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 8. An Act to compensate wholesale tobacco dealers for fixing tobacco tax stamps to cigarettes, etc.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk delivered the original

and enrolled copies of said bill, duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Wells moved that a bill entitled:

H. B. 18. An Act to provide for the supervision and regulation of the production, sale and distribution of tobacco; etc.

Be taken from the Committee on Agriculture No. 2 and advanced to a reading.

Said motion was agreed to.

Thereupon said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Wells moved that said bill be recommitted to the Committee on Agriculture No. 2, and that said bill retain its place on the Calendar.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed bills which originated in that body, entitled:

S. B. 10. An Act to amend and re-enact Section 4281i-11 of Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 11. An Act to amend and re-enact Section 2739g-1, Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 12. An Act to amend and re-enact Section 2739j-42 Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

Ordered that said bills be printed and referred to Committee on Kentucky Statutes No. 2.

Dr. Shields moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

TUESDAY, JANUARY 12, 1937.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Dr. R. A. Byers	George W. Dunlap
Henry H. Allen	Jas. C. Carter	Garland Embry
C. W. Anderson, Jr.	Floyd Clark	Walter R. Fannin
H. T. Baker	Roscoe Claxon	Chas. P. Farnsley
W. T. Baker	George S. Clay	T. P. Fitzpatrick
B. F. Bedford	Roy Conway	H. Myer Garner
Reuben J. Boling	Herbert Cook	James Garnett, Jr.
Douglas Bolling	Harry Davis	G. W. Garrett
Ollie J. Bowen	Sam Dever	Ferd A. Gnau
Wallace Brown	Stanley S. Dickson	Eugene Gough

Ben Grogan	John Marshall	Carl Scheben
Jas. T. Hamilton	D. T. Matlack	Ray O. Shehan
C. L. Hammons	Duke Mayfield	Dr. B. F. Shields
W. L. Hampton, Jr.	G. S. Milam	P. L. Sidebottom
Price Holbrook	John B. Mollett	Chester D. Silvers
Clyde S. Howard	W. E. Mull	H. C. Steely
Ira W. Hulette	Tyler Munford	Henry Stewart
John M. Hunnicut	J. C. Nickell	Dr. H. S. Swope
Ben W. Johnson	Russell O'Neill	W. R. Tapp
J. H. Jones	Mel Petry	J. J. Thomas
O. C. Jones	A. W. Pfeiffer	R. Van Bever, Jr.
R. T. Kirkman	J. C. Ramey	S. J. Wagner
J. F. Ladd	Hobart Rayburn	Joseph L. Wall
Leslie Larrimore	Harry C. Records	Henry Ward
Robert E. Lee	L. K. Rice	L. R. Wells
T. B. McConnell	Wade H. Riley	W. G. Williams
J. L. McDermott	Joe E. Robinson	Charles Wylie
Lloyd MacDonald	John C. Robinson	John Kirtley, Spkr.
W. F. McGary	W. T. Rollo	
Elmer McGlothen	A. W. Ross	

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in that body, entitled:

S. B. 13. An Act relating to sale and purchase of real estate by the Commonwealth of Kentucky, providing the Governor, Secretary of State, Treasurer, etc.

Ordered that said bill be printed and referred to Committee on State Properties.

Mr. Conway moved that the privilege of the floor be extended to Dr. B. F. Wright, former member of this House.

Said motion was agreed to.

Mr. Joe Robinson moved that the session of today be extended indefinitely.

Said motion was agreed to.

The Speaker announced that he had referred a bill which was offered on yesterday, as follows:

H. B. 25. To Committee on Interurban and City Railways.

And announced the personnel of said Committee to be the same as in the 1936 Regular Session, viz.:

INTERURBAN AND CITY RAILWAYS

W. E. Mull, *Chairman*

Ira W. Hulette	Dr. H. S. Swope
Henry Ward	Carl Scheben
W. T. Rollo	S. J. Wagner
Carl Schneider	Chester Silvers

Mr. Joe Robinson moved that the Rules of this House be suspended and that the House proceed to the consideration of the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills and resolutions of the following titles, viz.:

H. B. 22. An Act relating to the office of Sheriff, providing additional duties, powers and compensation therefor; repealing all parts of Sections 2780, 2781, 3782, 3783, 3784, 3785

and 3786, Kentucky Statutes, Carroll's 1930 and 1936 Editions, etc.

H. B. 20. An Act providing for a supplementary appropriation for the Department of Welfare for the fiscal year 1937-1937.

H. Res. 12. Resolution for the benefit of Ben Haskney, Kaley Barker, etc.

With a Committee amendment thereto.

H. Res. 15. A resolution for the benefit of the ministers of the churches of Frankfort.

S. B. 5. An Act relating to non-profit cooperative corporations and providing, but not by way of limitation, for the formation, operation, consolidation, and dissolution of non-profit cooperative corporations, etc.

H. B. 21. An Act relating to certain officers and employees of the Department of Public Health and the Department of Public Welfare of cities of the first class, etc.

S. B. 18. An Act to amend and re-enact Sections 4883, 4887, 4893, 4932, 4933, 4934 and 4957 of Carroll's Kentucky Statutes, 1930 Edition, being Sections 4, 7, 12, 33, 50, 51 and 74 of Chapter 33, 1916 Session of the General Assembly, commonly known as the "Kentucky Workmen's Compensation Act."

S. B. 2. An Act relating to revenue and taxation, and repealing Sections 4064, 4241, 4257a, 4260-2, 4260-3, 4260 4, 4260a, 4260d-3 and 4265, Kentucky Statutes, Carroll's 1930 and 1936 Editions, and repealing amending and re-enacting Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260d-1, 4261, 4262, 4263, 4019a-13 and 4267 of said Statutes, etc.

H. Res. 16. Resolution ratifying the proposed amendment to the Constitution of the United States to authorize Congress to limit, regulate and prohibit the labor of persons under eighteen years of age.

H. B. 18. An Act to provide for the supervision and regulation of the production, sale, marketing and distribution of tobacco, etc.

H. B. 24. An Act repealing, amending and re-enacting Section 14 of Chapter 1 of the Acts of the General Assembly, Third Extraordinary Session of 1936.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. Milam moved that a bill entitled:

H. B. 24. An Act repealing, amending and re-enacting Section 14 of Chapter 1 of the Acts of the General Assembly, Third Extraordinary Session of 1936.

Be recommitted to the Committee on Kentucky Statutes No. 1 and that said bill retain its place in the Orders of the Day.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 13. An Act to prohibit trade-mark owners, distributors and the public against injurious and uneconomic practices in the sale and distribution of articles of standard quality under a trade-mark, brand or name and defining unfair competition.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. No contract relating to the sale or resale of a commodity which bears, or the label or content of which bears, the trade-mark, brand or name of the producer or owner of such commodity and which is in fair and open competition with commodities of the same general class produced by others shall be deemed in violation of any law of the Commonwealth of Kentucky by reason of any of the following provisions which may be contained in such contract:

(1) That the buyer will not resell any such commodity except at the price stipulated by the vendor.

(2) That the producer or vendee of a commodity require upon the sale of such commodity to another, that such purchaser agree that he will not, in turn, resell except at the price stipulated by such producer or vendee.

Such provisions in any contract shall be deemed to contain or imply conditions that such commodity may be resold without reference to such agreement in the following cases:

(1) In closing out the owner's stock for the purpose of discontinuing delivery of any such commodity; provided, however, that such stock is first offered to the manufacturer of such stock at the original invoice stock price, at least ten (10) days before such stock shall be offered by sale to the public.

(2) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof.

(3) By any officer acting under the orders of any court.

§ 2. Willfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of Section 1 of this Act, whether the person so advertising, offering for sale or selling is or is not a party to such agreement, is unfair competition and is actionable at the suit of any person damaged thereby.

§ 3. This Act shall not apply to any contract or agreement between producers or between wholesalers or between retailers as to sale or resale prices.

§ 4. If any section, sentence or clause of this Act shall for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining parts thereof.

§ 5. This Act may be known and cited as the *"Fair Trade Act"*.

Mr. Wylie moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	B. F. Bedford	Wallace Brown
W. T. Baker	Douglas Bolling	Floyd Clark

Roscoe Claxon	Ira W. Hulette	W. T. Rollo
George S. Clay	John M. Hunnicut	A. W. Ross
Roy Conway	J. H. Jones	Carl Scheben
Herbert Cook	J. F. Ladd	Ray O. Shehan
Harry Davis	Leslie Larrimore	P. L. Sidebottom
Stanley S. Dickson	J. L. McDermott	Bruce Sloan
Garland Embry	Lloyd MacDonald	H. C. Steely
Walter R. Fannin	W. F. McGary	Henry Stewart
Chas. P. Farnsley	John Marshall	W. R. Tapp
T. P. Fitzpatrick	Duke Mayfield	J. J. Thomas
H. Myer Garner	G. S. Milam	R. Van Bever, Jr.
Ferd A. Gnau	W. H. Miller	S. J. Wagner
Eugene Gough	W. E. Mull	Henry Ward
Ben Grogan	L. K. Rice	L. R. Wells
W. L. Hampton, Jr.	Wade H. Riley	Charles Wylie

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Those who voted in the negative were—

Reuben J. Boling	R. T. Kirkman	Hobart Rayburn
Dr. R. A. Byers	Robert E. Lee	Joe E. Robinson
Sam Dever	Elmer McGlothen	John C. Robinson
G. W. Garrett	Russell O'Neill	Joseph L. Wall
Jas. T. Hamilton	J. C. Ramey	

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Mr. Hunnicut offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 13 by adding after the word "competition" and the period, the following words: "This Act shall be known as the Wylie Fair Trade Act."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Wylie moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 14. An Act authorizing refund of taxes paid under provisions of Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) by the Auditor of Public Accounts upon the filing of claims and providing that suits may be maintained upon the Auditor of Public Accounts' failure or refusal to issue warrants when the claims are properly filed; prescribing the venue and jurisdiction for the filing of such claims and for bringing of such suits; the manner in which they may be prosecuted, and waiving any defenses which the Commonwealth might assert on account of limitations, and on account of any failure to pay said taxes under protest, and making an appropriation therefor.

With a Committee amendment thereto.

Said bill is as follows, viz.:

Whereas, The General Assembly of one thousand nine hundred thirty (1930) passed an Act which was approved by the Governor on March seventeen (17), one thousand nine hundred thirty (1930), which is compiled as Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930), imposing an excise or license tax on retail merchants and prescribing heavy penalties for the failure to report and pay the taxes therein imposed; and,

Whereas, The principal purpose of said Act was to tax chain stores; and,

Whereas, The large chain stores and a number of other large stores filed suits in the Federal Courts to enjoin and did enjoin the State from collecting said taxes; and,

Whereas, In the case of the Kroger Grocery and Baking Co., et al., v. Lewis, et al., two hundred ninety-four (294) U. S. five hundred fifty (550), fifty-five (55) S. Ct. five hundred twenty-five (525), the Supreme Court of the United States held the aforesaid Act to be unconstitutional, and on April twenty-ninth (29th), one thousand nine hundred thirty-five (1935), overruled a petition for a rehearing filed on behalf of the Commonwealth of Kentucky in said case; and,

Whereas, By reason of such decision and of the aforesaid suits the large chain stores and other large merchants escaped entirely the payment of said tax; and,

Whereas, Before said Act was held unconstitutional a large number of merchants had paid said tax from year to year as and when due to avoid the penalties in said Act; and,

Whereas, The total amount so paid into the State Treasury for the five-year period from the effective date of the Act until same was held unconstitutional amounts in the aggregate to three hundred nine thousand, one hundred thirty-six dollars, fifty-six cents ($309,136.56); and,

Whereas, The Act under which said taxes were paid does not authorize the taxpayers to maintain suits for a refund thereof except within two years from the date said taxes were paid, and then only if paid under protest; and,

Whereas, They are justly entitled to a refund of said taxes, and the limitations imposed in said Act have barred the recovery of the taxes paid during the first three years of the operation of said Act unless waived by the General Assembly of Kentucky; and,

Whereas, If the State should fail to authorize a refund thereof, the merchants who paid same would thereby be discriminated against in favor of the large chain stores that escaped the payment of said taxes: Now, Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any person, firm, or corporation that paid into the

State Treasury of Kentucky any taxes under the provisions of Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) may file with the Auditor of Public Accounts a sworn statement as to the taxes so paid and interest thereon from the date of payment, and the said Auditor of Public Accounts may, if he deems it necessary, demand additional proof as to the validity of said claim, and if the Auditor of Public Accounts' records show the claim to be valid, he shall issue his warrant upon the State Treasurer in favor of said claimant for the amount due, and when the warrant is presented to the State Treasurer, he shall issue his check payable to the payee therein for the amount of the warrant, and both the warrant and the check shall be charged to the appropriation made by the General Assembly of Kentucky at the second special session of 1936, as provided in Section No. 55 of Chapter No. 51 of said Act, provided further that in the event the Auditor of Public Accounts fails or refuses to issue his warrant upon the State Treasurer, then in that event any person, firm, or corporation may file a suit against the Auditor of Public Accounts to recover the taxes so paid and interest thereon from the date of each payment. If the amount sought to be recovered be less than two hundred dollars ($200) the suit may be filed in Quarterly Court of Franklin County. If the suit be for more than two hundred dollars ($200) it may be filed in the Franklin Circuit Court. The plaintiff must allege in the petition the amount of taxes paid by the plaintiff in each year, and the approximate date of payment, and may maintain one suit for the total amount paid under said Act, together with interest thereon from the date of each payment.

§ 2. The penalties imposed by Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) being so severe, it is deemed and considered that payments of said taxes under the provisions of said Act were made under compulsion; and,

whether expressly paid under protest or not, any and all defenses based upon failure to pay said taxes under protest hereby are waived.

§ 3. Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) having been held constitutional by the Court of Appeals of Kentucky in the case of Moore, et al., v. State Board of Charities and Corrections, two hundred thirty-nine (239) Ky. seven hundred twenty-nine (729), forty (40) S. W. second (2d) three hundred forty-nine (349), and also having been held constitutional and valid by a three-judge Federal Court in the case of Kroger Grocery and Baking Company, et al., v. Lewis, et al., seven (7) Fed. Sup. four hundred thirty-eight (438), decided December twenty (20), one thousand nine hundred thirty-three (1933); and later having been held unconstitutional by the Supreme Court of the United States on an appeal from the aforesaid decision, finally decided by the Supreme Court on March eleven (11), one thousand nine hundred thirty-five (1935), it is deemed by the General Assembly that the two year limitation imposed by Section ten (10) of said Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) and the limitation imposed by Section one hundred sixty-three (163), Kentucky Statutes, Carroll's one thousand nine hundred thirty (1930) edition, should be and the same are hereby waived and the limitations thereby imposed shall not be pleaded as a defense and shall not be a defense to any claim or suit for a refund of the aforesaid taxes. Provided, however, the waiver of the defenses of limitations herein provided shall only apply to claims and suits filed within six months from the effective date of this Act. If said appropriation is not sufficient, an additional amount of $50,000 is hereby appropriated so as to liquidate the entire obligation of this Commonwealth to said taxpayers.

§ 4. Since Chapter one hundred forty-nine (149) of the Acts of the General Assembly of one thousand nine hundred thirty (1930) has been declared unconstitutional and since in equity each person who paid taxes under the said Act should be reimbursed and since suits for each refund would be necessarily expensive both in time and in money both to the plaintiffs and to the Commonwealth, the requirement in Section ten (10) of said Act that recovery may be had only by a suit against the Auditor of Public Accounts is hereby explicitly waived.

§ 5. If judgment be rendered for plaintiff in any suit brought under the provisions of this Act, the Auditor of Public Accounts upon presentation to him of an attested copy thereof shall issue his warrant upon the State Treasurer in favor of the plaintiff for the amount of the judgment and when the warrant is presented to the State Treasurer he shall issue his check payable to the payee therein for the amount of the warrant, and both the warrant and the check shall be charged to the appropriation made by the General Assembly of Kentucky at the second special session of 1936, as provided in Section No. 55, Chapter No. 51, of said Act.

Said Committee amendment is as follows, viz.:

Amend H. B. 14 by striking out the words beginning on line 22, Section 1, page 3 of the printed bill, with the words "Franklin County" and ending with the word "Court" in line 23 and inserting the following: "the county wherein the claimant resides. If the suit be for more than $200.00 it may be filed in the Circuit Court in the county of the residence of the claimant."

Said amendment was disagreed to.

Mr. Clay offered the following amendments to said bill, viz.:

1. Amend H. B. 14 by adding in line 22, page 3 of the printed bill, after the words "Franklin County" and before the period following, the following words: "or of the county wherein the claimant resides."

2. Amend H. B. 14 by adding after the words "Circuit Court" and before the period thereafter the following words: "or the Circuit Court wherein the claimant resides."

Said amendments were each agreed to.

Mr. Wagner offered the following amendment to said bill, viz.:

Amend H. B. 14 by striking out in line 16, page 3 of the printed bill, the words "fails or".

Said amendment was agreed to.

Mr. Wagner moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	W. L. Hampton, Jr.	Hobart Rayburn
H. T. Baker	Clyde S. Howard	L. K. Rice
W. T. Baker	Ira W. Hulette	Wade H. Riley
B. F. Bedford	John M. Hunnicut	Joe E. Robinson
Reuben J. Boling	J. H. Jones	John C. Robinson
Douglas Bolling	J. F. Ladd	W. T. Rollo
Wallace Brown	Leslie Larrimore	Carl Scheben
Dr. R. A. Byers	Robert E. Lee	Ray O. Shehan
Jas. C. Carter	T. B. McConnell	Dr. B. F. Shields
Roscoe Claxon	J. L. McDermott	P. L. Sidebottom
George S. Clay	Lloyd MacDonald	Chester D. Silvers
Roy Conway	W. F. McGary	H. C. Steely
Harry Davis	Elmer McGlothen	Henry Stewart
Sam Dever	John Marshall	W. R. Tapp
Stanley S. Dickson	D. T. Matlack	J. J. Thomas
Garland Embry	G. S. Milam	R. Van Bever, Jr.
Walter R. Fannin	W. H. Miller	S. J. Wagner
Chas. P. Farnsley	John B. Mollett	Joseph L. Wall
T. P. Fitzpatrick	Tyler Munford	Henry Ward
G. W. Garrett	J. C. Nickell	L. R. Wells
Ferd A. Gnau	Russell O'Neill	W. G. Williams
Eugene Gough	Mel Petry	Charles Wylie
Ben Grogan	A. W. Pfeiffer	—68

There voted in the negative—

J. C. Ramey —1

Mr. Wagner offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 14 by striking out the words "failure or" in the fifth line of said title on page 1 of the printed bill.

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Wagner moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Hunnicutt moved that the Rules of this House be suspended for the purpose of introducing bills.

Said motion was agreed to.

Thereupon the following bill was introduced, viz.:

By Mr. Hunnicutt:

H. B. 26. An Act to amend and re-enact No. 2 of an Act entitled, "An Act to authorize cities of the second, third and fourth class to acquire waterworks and to issue bonds, therefor, payable from the revenues of such works", being Chapter 133 of the Acts of the General Assembly of 1926, and to amend and re-enact the amendment to said Section No. 2 of said Act which amendment extended the provisions thereof to include the acquisition of sewerage systems within said cities, which amendment is Chapter 109 of the Acts of the General Assembly of 1932, and to amend and re-enact the amendment of said Section No. 2 of said Act which amendment extended the provisions thereof to cities of the fifth and sixth classes, which amendment is Chapter 81 of the Acts of the General Assembly of 1936, and to amend and re-enact Section No. 9, Chapter 92, of the Acts of the General Assembly of 1930, which authorized and required sinking funds for payment of interest and redemption of bonds, and authorizing the costs of sewerage systems and waterworks systems being built by the same city to be paid for by a combined bond issue sufficient to pay the costs of construction of both systems, and requiring sufficient revenues from both the sewerage system and waterworks system to be placed in one sinking fund for the payment of

interest and principal of the combined issue, declaring an emergency to exist, and repealing all conflicting laws.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section No. 2 of an Act entitled, "An Act to authorize cities of the second, third and fourth classes to acquire waterworks and to issue bonds, therefor, payable from the revenues of such works", being Chapter 133 of the Acts of the General Assembly of 1926, and to amend and re-enact the amendment to said Section 2 of said Act which amendment extended the provisions thereof to include the acquisition of sewerage systems within said cities, which amendment is Chapter 109 of the Acts of the General Assembly of 1932, and to amend and re-enact the amendment of said Section No. 2 of said Act which amendment extended the provisions thereof to cities of the fifth and sixth classes, which amendment is Chapter 81 of the Acts of the General Assembly of 1936, and to amend and re-enact Section No. 9, Chapter 92, of the Acts of the General Assembly of 1930, which authorized and required sinking funds for payment of interest and redemption of bonds, be and the same is hereby amended and re-enacted so that the same as amended and re-enacted shall read as follows, to wit:

§ 1. For the purpose of defraying the costs of acquiring any such waterworks and or sewerage system, either by purchase or construction, and appurtenances or extensions thereto, such city or town may borrow money and issue negotiable bonds, provided no such bonds shall be issued unless and until authorized by an ordinance specifying the proposed undertaking, the amount of bonds to be issued and the maximum rate of interest such bonds are to bear, shall not be more than six per cent (6%) per annum, provided that any city or town constructing both a sewerage system and waterworks system

are hereby authorized to issue a single issue of negotiable bonds sufficient to pay the entire combined costs of both the sewerage system and waterworks system.

§ 2. Provided that where a city or town is building both a sewerage system and waterworks system and issuing a combined bond issue for the payment of costs of said systems then sufficient revenue from the sewerage system and waterworks system shall be deposited in a common sinking fund for the payment of the interest and principal for said combined issue.

Whereas, many of the cities to which this act is applicable are now without adequate waterworks or sewerage facilities, thus endangering the health, safety, and convenience of the inhabitants thereof, and whereas, some of the cities are unable to procure loans from the Federal Government until this Act becomes a law, therefore, an emergency is declared to exist and this Act shall take effect, immediately upon its passage and approval by the Governor.

All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Ordered that said bill be printed and referred to the Committee on Kentucky Statutes No. 1.

Mr. Farnsley moved that the Rules of this House be suspended for the purpose of making Committee Reports.

Said motion was agreed to.

Thereupon the Committees to which the same had been previously referred, reported bills of the following titles, viz.:

By Mr. Gough of the Committee on Cities of the Third Class:

H. B. 23. An Act to prohibit the distribution, sale or exchange in Kentucky of goods manufactured in whole or in part by convicts or prisoners, etc.

By Mr. Munford of the Committee on Kentucky Statutes No. 2:

S. B. 10. An Act to amend and re-enact Section 4281i-11 of Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 11. An Act to amend and re-enact Section 2739g-42 Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 12. An Act to amend and re-enact Section 2739j-42, Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

With the expression of opinion that said bills ought to pass.

Said bills were severally read at length the first time and ordered to be placed on the Calendar.

A message was received from the Senate announcing that they had passed a resolution which originated in that body, of the following title, viz.:

S. R. 11. Joint resolution for the benefit of employees of the House and Senate.

Ordered that said resolutions be printed and referred to Committee on Appropriations No. 1.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, bills of the following titles, viz.:

S. B. 3. An Act to authorize cities of the first class to construct law school buildings for municipal universities where the ground for such buildings has been conveyed to the city free of cost.

S. B. 7. An Act repealing Chapter 3 of the Acts of the Third Special Session (Revenue Session) of the General Assembly of 1936, known as the Luxury Tax, etc.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker in open session and in the presence of the House, affixed his signature thereto.

Ordered that said bills be delivered to the Enrolling Clerk of the Senate.

Mr. McGlothen moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

At the hour of two o'clock P. M. the Speaker resumed the Chair and called the House to order.

Mr. Pfeiffer moved that the Rules of this House be suspended for the purpose of introducing a resolution.

Said motion was agreed to.

Thereupon the following resolution was introduced, viz.:

By Mr. Pfeiffer:

H. Res. 17.

Be it Resolved by the House of Representatives of the Commonwealth of Kentucky:

Whereas, the President of the United States has definite-

ly indicated his desire for strict neutrality in the matters concerning the present Civil War in Spain, and,

Whereas, any speakers from Spain are quite evidently paid propagandists and agents of the waring factions regardless of which side they espouse: Therefore,

Be it Resolved: That the House of Representatives condemns and definitely disapproves the action of permitting these paid foreign propagandsts to speak before audiences and especially the student bodies of the University of Kentucky and the University of Louisville, and deplores the actions of the authorities of these universities in violating the expressed desires of the President with reference to neutrality.

Be it Further Resolved, That the Clerk of the House of Representatives is hereby instructed to send a copy of this resolution to the President of the University of Louisville and the President of the University of Kentucky.

Mr. Davis moved that said resolution be laid on the table.

Said motion was agreed to.

And so said resolution was tabled.

The Chief Clerk read to the members of the House the following telegram to the Speaker of this House, viz.:

The Hon. John Kirtley,
Speaker of the House of Representatives,
Frankfort, Kentucky.

In view of the President's request that the Child Labor Amendment be ratified by the necessary number of States to made in a part of the Constitution and in view of Governor Chandler's inclusion of this question as a subject for consideration by the present session of the Kentucky Legislature and in view of our belief that the ratification of this amend-

ment is imperative in order that the question of Child Labor may be adequately dealt with we are taking the liberty to urge most respectfully that this amendment be ratified by your present session of the Kentucky Legislature before its adjournment. Ordinarily we have not felt it within our province to participate in the consideration of purely State matters pending before the Legislature but inasmuch as the Child Labor amendment was initiated and submitted by the Congress to the Legislatures and involves both Federal and State action before the amendment can be consummated we feel justified in bringing this matter to your attention and urging the members of both houses to ratify this amendment in order that it may become a part of our Federal Constitution at the earliest possible date. There is and can be no partisan political question in so great and social and economic reform and we express the hope that Kentucky will be one of the first of the remaining states to give approval to an amendment which will make it certain that we can deal adequately with the problem of Child Labor which presses so closely upon the solution of other important matters for the welfare of our common country.

Alben W. Barkley
M. M. Logan
Fred M. Vinson
Noble J. Gregory
Emmet O'Neal
Edward Creal
Andrew J. May
Brent Spence
John M. Robsion

A message was received from the Senate announcing that they had passed a bill which originated in that body, entitled:

S. B. 21. An Act relating to the use of funds held by counties under the terms of Section 14, Chapter 25 of the Acts of the General Assembly, Special Session of 1934.

Ordered that said bill be printed and referred to Committee on Kentucky Statutes No. 1.

Dr. Shields moved that the Rules of this House be suspended for the purpose of making Committee Reports.

Said motion was agreed to.

Thereupon Mr. John Robinson of the Committee on Agriculture No. 1 to which the same had been recommitted, reported a bill entitled:

H. B. 12. An Act to provide for the stabilization of the milk industry in the State of Kentucky; etc.

With an amendment thereto by way of Substitute therefor.

Without an expression of opinion.

Ordered that said bill take its place in the Orders of the Day

By Mr. Ramey of the Committee on State Properties:

S. B. 13. An Act relating to the sale and purchase of real estate by the Commonwealth of Kentucky; providing that the Governor, Secretary of State, State Treasurer, Auditor of Public Accounts, and the Attorney General shall be members of and constitute the Kentucky Real Estate Board, etc.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Pfeiffer moved that the Rules of this House be suspended and that a Committee be appointed by the Speaker to

draft a suitable resolution, relating to the subject matter contained in a resolution heretofore offered by him, to wit:

H. Res. 17. (For resolution see Journal of today, *ante.*)

Said motion was disagreed to.

Mr. Silvers moved that the privilege of the floor be extended to Messrs. B. F. Wells, C. B. Ballenger and W. B. Longbridge.

Said motion was agreed to.

Mr. Thomas moved that the privilege of the floor be extended to Mr. Robert Barry.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 15. An Act to provide for the registration of trademarks, stamps, seals, designs, devices, patterns, advertisements, forms of advertisement, letters, numbers, ornaments, engravings, word, words, wordings, phrases, slogans, names or any signs whatever, labels, prints, wrappers, brands, imprints, shapes, terms, descriptions, emblems, buttons, rosettes, badges, ribbons, insignia, descriptions or designations, or any combination of two or more of the aforesaid subjects, and to protect and secure the rights, property and interests of the persons, associations, unions, organizations, corporations, partnerships or firms and individuals, who file and register in accordance with this act, and to provide for the assignment of such registrations, and to provide for the disposition of revenue, and to provide procedure for enforcement and penalties for violation of this act and declaring an emergency.

Said bill is as follows:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Short Title of Act.

This act shall be known and may be cited as the "Kentucky Trade-Mark Act".

§ 2. Definitions.

(a) The word "trade-mark" as used herein includes every description of word, letter, device, emblem, stamp, ornament, imprint, brand, printed ticket, label, or wrapper, affixed by any mechanic, manufacturer, druggist, merchant or tradesman, to denote any goods to have been imported, manufactured, produced, compounded, sold, or offered or intended for sale by him.

(b) The word "goods" as used herein includes every kind of goods, wares, merchandise, compound or preparation, works of art, painter's symbol or signature, which may be lawfully kept or offered for sale.

(c) The word "person" as used herein includes individuals, associations, unions, organizations, corporations, trusts, partnerships and firms.

§ 3. Registration; How to Obtain the Benefits of this Act.

Every person who uses or intends to use a trade-mark, stamp, seal, design, device, pattern, advertisement, form of advertisement, letter, number, ornament, engraving, word, words, wording, phrase, slogan, name or any sign whatever, label, print, wrapper, brand, imprint, shape, term, description, emblem, button, rosette, badge, ribbon, insignia, description or designation, or any combination of two or more of the aforesaid subjects to denote any goods imported, manufactured, produced, compounded, sold or offered for sale in this State and is desirious of obtaining the protection, security and benefits provided herein, must file for record in the office of the Secretary of State a statement setting forth:

(a) The name and address of the person applying for such registration;

(b) The class of merchandise and a particular description of the goods comprised in each class to which such trade-mark has been or is intended to be appropriated and the mode in which it is or is to be applied and used, or in the case of any other subject of registration under this act the general nature of the applicant's business and the use or proposed use of such subject of registration;

(c) The date when such trade-mark or other subject of registration under this act was first used or adopted or is intended to be used and that no other person has the right to such use, either in the identical form, or having such near resemblance thereto as may be calculated to deceive or that would be liable to be mistaken therefor;

(d) Any claims or reservations for similar trade-marks or other subjects.

A facsimile, copy or counterpart, of such trade-mark or other subject of registration under this act, shall be incorporated in or annexed to such statement, and a duplicate shall be filed therewith. Such statement shall be signed by the applicant in whose behalf it is filed, or by his or its agent or duly authorized officer, and the person so signing shall make oath or affirm that all the statements therein contained are true, to the best of his knowledge and belief.

(e) There is excepted as to what may be registered corporation names, personal names, words commonly used by all businesses in advertisements, certain commercial symbols and emblems of universal and common use and State or National emblems. No person shall register unto himself a mark in the event same is being used by a foreign corporation. All application blanks for registration must be furnished by the Secretary of State, and such applications as are filed with him shall be sworn to before a notary public and two copies shall be filed with the Secretary of State and the application shall

state, in addition to such other information as may be required, how long the mark has been used.

§ 4. Filing Fee; Receipt.

There shall be paid to the Secretary of State for the filing of such statement or application a fee of five dollars ($5.00), and the Secretary of State shall deliver to the person filing such statement or application for registration, or causing the same to be filed, a receipt showing the date of such filing or registration, and there shall accompany such statement or application a general description of the trade-mark or other subject sought to be registered.

§ 5. Publication of Notice.

After filing such statement with the Secretary of State the applicant shall, at his expense, cause to be published a brief statement setting forth that the applicant has filed with the Secretary of State application for registration of the said names or marks so used or intended to be used, and setting out the date of such filing and describing briefly the trade-mark or other subject sought to be registered and the use or intended use thereof, and that the applicant, giving his name and address, claims the exclusive right to such trade-mark or other subject sought to be registered, and the use or intended use, thereof, and that any person having or claiming to have any right, title, or interest in or to such thereof, shall have sixty days from the date of the first publication, which date shall be given in each notice, within which to file in the office of the Secretary of State a statement of his claim or interest in or right to such trade-mark or other subject, or the use thereof, and that if no such statement be filed within such period of sixty days the trade-mark or other subject described in such publication notice, and the right to exclusive use thereof, will be registered as sole and exclusive property of such applicant, and that all other persons shall be thereafter barred of and from any right, title, or interest in or to such trade-mark or other subject, or the use thereof.

The statement above required to be published shall be published once a week for three successive weeks in the newspaper of the county, wherein the applicant's principal office is situated which has the largest circulation; or if there is no newspaper in such county, then such publication shall be made in the newspaper of an adjoining county, which newspaper has the largest circulation.

§ 6. Registration; Fee; Certificate.

If at the expiration of such period of sixty days from the date of the first publication of notice of the filing of any such statement and of the claim to ownership of the trade-mark or other subject described therein no statement of any claim of interest in or right to such trade-mark or other subject or the use thereof by any other person shall have been filed with the Secretary of State the trade-mark or other subject sought to be registered shall upon the filing of proof of such publication and the payment of a registration and certificate fee of forty dollars ($40.00) be registered by the Secretary of State in the name of such applicant and the Secretary of State shall forthwith deliver to such applicant a duly attested certificate of such registration with a facsimile of the trade-mark or other subject of registration incorporated in such certificate.

§ 7. Certificate of Registration and Copies as Evidence.

Any certificate of registration issued by the Secretary of State under the provisions of this act or a copy thereof duly certified by the Secretary of State shall be admissible in evidence and competent and sufficient proof of the registration of such trade-mark or other subject of registration in any action or judicial proceeding in any of the courts of this State, and of the due compliance with the provisions of this act.

§ 8. Effect of Registration.

Registration as provided in this act shall bar every person other than the registrant of any right, title, or interest in or to such registered trade-mark or other subject or the use thereof and shall vest in the registrant the sole and exclusive

right to such trade-mark or other subject and the exclusive use thereof. From and after such registration as herein provided no person other than the registrant shall be allowed or permitted in any civil proceeding at law or in equity or in any penal or criminal proceeding to set up any claim of ownership or right to the use of such trade-mark or other subject so registered.

§ 9. Contest of Right to Trade-Mark.

Any person claiming any right, title, or interest in or to any trade-mark or other subject, or the use thereof, described in any statement filed by any applicant in the office of the Secretary of State shall, within sixty days after the date of the first publication of the notice of filing of such applicant, file in the office of the Secretary of State a statement of his claim in or to such trade-mark or other subject, or the use thereof, setting forth the facts upon which he bases his claim, which statement shall be duly verified by the affidavit of such claimant or his agent or duly authorized officer. Any person failing or neglecting to file such statement within the time herein provided shall be deemed to have waived and abandoned any right, title, or interest which he had or claimed to have in or to such trade-mark or other subject, or the right to the use thereof.

§ 10. Determination of Contest by Secretary of State.

If at the expiration of sixty days from the date of the first publication of notice there shall have been filed with the Secretary of State any statement or statements setting up claims in and to the trade-mark or other subject sought to be registered adverse to the applicant, the Secretary of State shall determine the right to the registration of the trade-mark or other subject as between the parties thereto. Upon payment of the registration and certificate fee and upon proof of publication if such registration is to be in the name of the original applicant, the Secretary of State shall register such trade-mark or other subject in the name of the person determined

by him to be entitled to such registration, and shall deliver to such registrant a duly attested certificate of registration in manner and form as provided by section six, which certificate shall have the effect prescribed by section eight of this act.

§ 11. Appeal to the Franklin Circuit Court from Determination of Contest by Secretary of State.

Any party to a contest of the right to the registration of a trade-mark or other subject may within ten days from the date of the determination of the Secretary of State appeal to the Franklin Circuit Court, which court shall have power to hear such appeal and confirm or reverse the determination of the Secretary of State. Such appeal shall be taken by notice filed with the Secretary of State, who shall forthwith transmit to the Clerk of the Franklin Circuit Court certified copies of all the papers and data presented to him in connection with such contest, and the Clerk of said court shall file the same in his office as a part of the records of the Court. If the said court shall confirm the determination of the Secretary of State, an order to that effect shall be entered and a certified copy thereof shall be filed with the Secretary of State. If the court shall reverse the decision of the Secretary of State, it shall order the cancellation of the registration theretofore made and the certificate theretofore issued by the Secretary of State, and shall direct the Secretary of State to issue a certificate of registration to the person, or persons, named in the order. Either party to the action in the Franklin Circuit Court may appeal within ten days from the order of said court to the Court of Appeals, and when a certificate of registration shall have been revoked by the court the certificate fee theretofore paid by the applicant shall be returned to him; and the person in whose name the registration is directed to be made by the court shall pay to the Secretary of State the registration and certificate fee required by this act, and the Secretary of State shall thereupon issue to him a certificate

of registration as provided by section six, which certificate shall have the effect prescribed by section eight of this act.

§ 12. Registrations Prohibited; Refusal of Secretary of State to Register; Appeal.

The Secretary of State shall not register or permit to be registered any trade-mark or other subject of registration under this act that is in the identical form or wording of any other trade-mark or other subject of registration theretofore registered by or on behalf of any other person with the Secretary of State, or that bears any such near resemblance thereto as may be calculated to deceive or that would be liable to be mistaken therefor, and the Secretary of State may, if he deems it proper, register or refuse to register any trade-mark or other subject of registration under the provisions of this act. The refusal of the Secretary of State to register a trade-mark or other subject of registration shall be reviewable by the Franklin Circuit Court and the Court of Appeals in the manner provided by section eleven of this act, and the said courts shall have authority to make such orders in the premises as they shall deem proper. Such appeal shall be taken within ten days after the refusal of a registration by the Secretary of State.

§ 13. Registration under Prior Acts.

On payment of the certificate fee prescribed in section six, any person who has heretofore registered in the office of the Secretary of State any trade-mark or other subject of registration under any law in effect at the time of such registration, which trade-mark or other subject might be registered under this act, shall be entitled to a certificate from the Secretary of State covering such registration and shall receive the benefits of this act the same as if such registration had been made originally hereunder.

§ 14. Present and Intended Use; Time for Registration; Failure to Register; Effect.

Every person who has heretofore or is now using any

trade-mark or other subject which may be registered under this act and who has not registered the same with the Secretary of State under any law in effect prior to the passage of this act must file the same for registry under this act within six months after this act takes effect; and every person who adopts and uses any trade-mark or other subject which may be registered under this act shall file application for the registry thereof within six months after date of its first adoption or use. Failure to file any such trade-mark or other subject for registry within a period of six months after this act takes effect or within a period of six months after its first adoption or use, if adopted and used after this act takes effect, shall be deemed a waiver or abandonment of the claim of right to the exclusive use thereof and such trade-mark or other subject shall be deemed public property within this State and may be appropriated and registered by any person who may apply for the registration thereof under the terms of this act. Registration after the expiration of such period of six months from the time this act takes effect or after the expiration of six months from the first adoption and use of such trade-mark or other subject of registration, if after this act takes effect, may be made by the person originally entitled thereto only by application to the Franklin Circuit Court, showing why such registration was not made within the time provided therefor by this section and that no other person has appropriated and registered such trade-mark or other subject. Upon the allowance of such application by the Franklin Circuit Court the same procedure shall be had, including publication of notice, payment of fees and issuance of certificate, as is required in other cases.

§ 15. Assignability; Death of Registrant.

Every trade-mark or other right secured under this act shall be a right that shall be assignable in law, and such assignment may be recorded and entered in the office of the Secretary of State upon the payment of a fee of twenty-

five dollars therefor; but all such assignments shall be good only against the assignor, his assigns and successors in interest. Upon the death of an individual registrant of a trade-mark or other subject of registration, the rights secured by this act shall devolve upon the personal representative of the deceased, unless otherwise validly disposed of by him.

§ 16. Licensing by Registrant.

Any person who has registered any trade-mark or other subject of registration in accordance with the provisions of this act may license and authorize any person, on such terms as may be agreed upon between the parties, to use such trade-mark or subject so registered, and such license, consent or authority may be revoked and terminated at any time upon written notice to the licensee, if provided by the terms of the licensing agreement, and thereafter any use of such registered trade-mark or other subject of registration by such licensee or any one under his authority shall be unlawful and shall subject the user to the penalties provided therefor by this act.

§ 17. Injunction; Jurisdiction and Power of Courts of Chancery.

Any person who has registered a trade-mark or other subject of registration under the provisions of this act, or his assignee of record, may apply to any court of equity for an injunction to restrain the manufacture, use, display or sale of any counterpart or imitation thereof, either in its identical form or in a form that bears any such near resemblance thereto as may be calculated to deceive or that would be liable to be mistaken therefor. The court is empowered and required to enjoin such manufacture, use, display or sale as the court shall deem just and reasonable and shall require the defendant or defendants to pay to the registrant or his assignee any and all profits derived from such wrongful manufacture, use, display or sale; and the court shall also order that all such counterparts or imitations in the possession or under the con-

trol of any defendant in such proceeding be delivered to an officer of the court or to the complainant to be destroyed. The law and practice regulating proceedings in equity shall in so far as applicable govern all applications under this section.

§ 18. Violation of Act; Punishment.

Any person who:

(a) Falsely makes or counterfeits a trade-mark or other subject of registration which has been registered in accordance with the provisions of this act; or

(b) Affixes to any article of merchandise, a false or counterfeit trade-mark or other subject of registration knowing the same to be false or counterfeit, or the genuine trade-mark, or an imitation of the trade-mark or other subject of another which has been registered in accordance with the provisions of this act, without the latter's consent; or

(c) Knowingly sells, or keeps or offers for sale, an article of merchandise, to which is affixed a false or counterfeit trade-mark or other subject of registration, or the genuine trade-mark or other subject, or an imitation of the trade-mark or other subject of another which has been registered in accordance with the provisions of this act, without the latter's consent; or

(d) Has in his possession a counterfeit trade-mark or other subject of registration, knowing it to be counterfeit, or a die, plate, brand, or other thing for the purpose of falsely making or counterfeiting a trade-mark or other subject which has been registered in accordance with the provisions of this act; or

(e) Makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, an article of merchandise with such a trade-mark or other subject of registration which has been registered in accordance with the provisions of this act as to appear to indicate the quantity, quality, character, place of manufacture, or produc-

tion, or persons manufacturing, packing, bottling, boxing, or producing the article, but not indicating it truly; or

(f) Knowingly sells, or keeps or offers for sale an article of merchandise, to which is affixed any trade-mark or other subject of registration, either in the identical form thereof or that bears any such near resemblance thereto as may be calculated to deceive, or that would be liable to be mistaken therefor, which has been registered by another in compliance with this act and which registration has not been revoked or canceled by order of any court of competent jurisdiction in this State shall be guilty of a misdemeanor and punishable for the first offense by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for not more than one year, or by both such fine and imprisonment, and for each subsequent offense by imprisonment for not less than thirty days or more than one year, or by both such imprisonment and a fine of not less than five hundred dollars or more than one thousand dollars.

§ 19. Construction of Act.

This act shall be construed by all courts at all times in all suits, actions and proceedings, in the most liberal manner for effecting the objects and purposes thereof and protecting the claims, rights, interests, use, and property of every person in and to any trade-mark or other subject of registration registered pursuant to the provisions of this act.

§ 20. Partial Unconstitutionality of Act.

If any part or provision of this act shall be declared to be unconstitutional or inoperative, in whole or in part, by any court of competent jurisdiction, the act shall notwithstanding such determination be enforced and effectuated to the extent that it is not unconstitutional or inoperative and no such determination shall be deemed to invalidate or make ineffectual the remaining parts or provisions of the act.

§ 21. Disposition of Revenue.

All revenue collected under the terms of Sections 4, 6, and

15 of this Act shall be covered through the Department of Finance into the State Treasury of the Commonwealth and credited to the Governor's General Emergency Fund.

§ 22. Repealer.

All other acts and parts of acts inconsistent with this act be and the same are hereby repealed to the extent of the conflict.

§ 23. Emergency.

Inasmuch as the existing law for the protection of trademarks, trade names, and such similar property rights is entirely inadequate and affords no protection to a large number of persons, an emergency is hereby declared to exist and this Act shall become a law and be effective upon its approval by the Governor.

Mr. Hunnicutt offered the following amendment to said bill, viz.:

Amend H. B. 15 by adding, after the word "registered" and period (.) at end of line 10, Section 8, page 6, the following:

Provided, that any resident or non-resident person, firm or corporation claiming to have prior right of use and/or ownership and/or interest in any trade-mark, slogan or other subject registered, or in any trade-mark, slogan, device, working or emblem similar to any subject registered, may bring suit in Franklin Circuit Court to have such registration set aside. In any such action, upon proof of prior use and/or ownership and/or interest in any subject registered or similar to any subject registered, the court shall order such registration set aside.

Mr. Garnett moved that said amendment be laid on the table.

Said motion was agreed to.

And so said bill was tabled.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 19. An Act relating to unfair sales in wholesale and retail trade, making certain unfair and discriminatory practices unlawful, defining words, phrases, and terms used, providing for actions to enjoin unfair sales, making the violation of the provisions of this Act a misdemeanor and providing penalties therefor.

Mr. Brown moved that said bill be made a Special Order of the Day, for tomorrow at two o'clock P. M.

Said motion was agreed to.

Mr. Schneider introduced to the members of the House, Mr. H. K. Kirtley of Island, Kentucky, father of The Hon. John Kirtley, Speaker of the House of Representatives.

Mr. Wells moved that when the House adjourn today it adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of making Committee Reports.

Said motion was disagreed to.

Mr. Milam moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, JANUARY 13, 1937.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

Henry H. Allen	C. L. Hammons	Russell O'Neill
C. W. Anderson, Jr.	W. L. Hampton, Jr.	Mel Petry
H. T. Baker	Thomas W. Hines	A. W. Pfeiffer
B. F. Bedford	Price Holbrook	J. C. Ramey
Reuben J. Boling	Clyde S. Howard	Hobart Rayburn
Douglas Bolling	Ira W. Hulette	Harry C. Records
Ollie J. Bowen	John M. Hunnicut	L. K. Rice
Wallace Brown	Ben W. Johnson	Wade H. Riley
Dr. R. A. Byers	J. H. Jones	Joe E. Robinson
Jas. C. Carter	R. T. Kirkman	John C. Robinson
Floyd Clark	J. F. Ladd	W. T. Rollo
Roscoe Claxon	Leslie Larrimore	A. W. Ross
George S. Clay	Robert E. Lee	Carl Scheben
Roy Conway	T. B. McConnell	Carl Schneider
Herbert Cook	Lloyd MacDonald	Ray O. Shehan
Harry Davis	W. F. McGary	Dr. B. F. Shields
Sam Dever	Elmer McGlothen	P. L. Sidebottom
Howard G. Early	John Marshall	Chester D. Silvers
Garland Embry	C. S. Matherly	Bruce Sloan
Walter R. Fannin	D. T. Matlack	H. C. Steely
T. P. Fitzpatrick	Duke Mayfield	Henry Stewart
H. Myer Garner	G. S. Milam	Dr. H. S. Swope
G. W. Garrett	W. H. Miller	W. R. Tapp
James Garnett, Jr.	John B. Mollett	S. J. Wagner
Ferd A. Gnau	W. E. Mull	Joseph L. Wall
Eugene Gough	Tyler Munford	Henry Ward
Ben Grogan	Rodes K. Myers	W. G. Williams
Jas. T. Hamilton	J. C. Nickell	

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Johnson moved that the privilege of the floor be extended to Dr. B. F. Wright.

Said motion was agreed to.

Mr. Schneider moved that the privilege of the floor be extended to Dr. S. J. Brownstein.

Said motion was agreed to.

Mr. Kirkman moved that the privilege of the floor be extended to Dr. A. S. Rees and daughter.

Said motion was agreed to.

Mr. Silvers moved that the privilege of the floor be extended to Messrs. Charles Land and B. F. Wells of Fayette County.

Said motion was agreed to.

Mr. Scheben moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Gnau moved that a resolution entitled:

S. Res. 11. Resolution for the benefit of employees of the House and Senate.

Be taken from the hands of the Committee on Appropriations No. 1, to which the same had been referred, and advanced to a reading.

Said motion was agreed to.

Thereupon said resolution was read at length the first time and ordered to be placed in the Calendar.

Mr. Silvers moved that the privilege of the floor be extended to Messrs. Ingram, Duncan and Longbridge of Fayette County.

Said motion was agreed to.

Mr. Myers moved that the Rules of this House be suspended for the purpose of proceeding to the consideration of the Orders of the Day.

Said motion was agreed to.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 23. An Act to prohibit the distribution, sale or exchange in Kentucky of goods manufactured in whole or in part by convicts or prisoners, etc.

S. B. 10. An Act to amend and re-enact Section 4281i-11 of Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 11. An Act to amend and re-enact Section 2739g-42, Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 12. An Act to amend and re-enact Section 2739j-42, Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

Ordered that said bills be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

A message was received from the Senate announcing that they had passed a resolution which originated in that body entitled:

S. Res. 12. A Joint Resolution ratifying the proposed amendment to the Constitution of the United States to authorize Congress to limit, regulate and prohibit the labor of persons under eighteen years of age.

Said resolution is as follows, viz.:

Whereas, Both Houses of the Congress of the United States of America by a constitutional majority of two-thirds thereof made the following proposition to amend the Constitution of the United States of America, in the following words, to wit:

"Joint Resolution, proposing to amend the Constitution relating to the limiting, regulation and prohibition of the labor of persons under 18 years of age:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled*:

"Two-thirds of each House concurring therein, that the following Article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution, when ratified by the Legislature of three-fourths of the several states.

"Section 1. That Congress shall have power to limit, regulate and prohibit the labor of persons under 18 years of age.

"Section 2. The power of the several states is unim-

paired by this Article, except that the operation of the State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress." Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the foregoing and above recited amendment to the Constitution of the United States of America be and the same is hereby ratified by the General Assembly of the Commonwealth (State) of Kentucky as an amendment to the Constitution of the United States.

§ 2. That the Governor of the Commonwealth of Kentucky forthwith forward to the Secretary of State of the United States an authenticated copy of the foregoing Joint Resolution.

Ordered that said resolution be referred to the Committee on Kentucky Statutes No. 1.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 21. An Act relating to certain officers and employees of the Department of Public Health and the Department of Public Welfare of cities of the first class and providing for the appointment and compensation of certain members of the Department of Public Health and Department of Public Welfare; for the creation of a personnel commission of four appointed members with the Mayor as a member *ex officio* with power to vote, and the appointment, qualification, terms of office, removability and compensation of the appointed members of the said commission; for the levying and assessment of taxes to support of said commission and defining the rights, powers and duties of said commission, and providing for the organization and administration of the said departments and making the violation of the provisions of this act a

misdemeanor and providing penalties for the violation thereof and fixing the time when the changes provided for herein shall become effective; providing for disciplinary measures applicable to the enforcement of this act and providing for a merit system of employment in the Department of Public Welfare and Public Health in cities of the first class; providing for a method of extending the provisions of this act to other departments and agencies of cities of the first class by aldermanic action; making the provisions hereof effective on other departments and agencies of the said cities when extended by aldermanic action; defining certain terms used in this act; providing a method of extending the provisions of this act to include additional positions in the Department of Public Health and Department of Public Welfare; prohibiting the making or soliciting of political contributions by the employees in positions subject to the provisions of this act; providing for maintaining the validity of the remainder of the act in case any part shall be declared invalid, and providing for the repeal of any acts or parts of acts in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* The term "emergency appointment," as used in this act, shall be held to mean any appointment to any position subject to the provisions of this act, which may be made only in the absence of an appropriate eligible list for the position and which may be made without competitive examination pending the establishment of an eligible list and which appointment shall not exceed the duration of the emergency and in no case to exceed ninety days in any one fiscal year.

The term "probationary appointment," as used in this act, shall be held to mean an appointment to any position subject to the provisions of this act, which shall be made in ac-

cordance with the provisions of Section 5 of this act and which shall not be less than six months nor more than one year in duration.

The term "regular appointment," as used in this act, shall be held to mean an appointment to a position subject to the provisions of this act made after an employee has served a probationary period in a manner deemed satisfactory to his department head.

The term "personnel commission," as used in this act, shall be held to mean the agency established by this act, including the governing body of five personnel commissioners, the personnel director, and such other assistants as may be employed by such agency in carrying out the provisions of this act.

The term "personnel commissioner," as used in this act, shall be held to mean a member of the governing body of the personnel commission as provided for in Section 2 of this act.

The term "personnel director," as used in this act, shall be held to mean the chief administrative officer of the personnel commission as provided for in Section 3 of this act.

The term "appointing authority," as used in this act, shall be held to mean the department or agency head having the power of appointment or removal from positions as provided for in this act.

The term "competitive examination," as used in this Act, shall include consideration and rating of any or all of the following qualifications of applicants; education, training, experience, general adaptability, special aptitude, physical fitness, knowledge, skill, personality, character and such other qualifications as may be deemed necessary for the satisfactory performance of the duties of the respective positions.

The term "eligible list," as used in this Act, shall be held to mean a list of names of persons who have been found qualified through suitable competitive examinations for positions of classes of positions as provided for in this Act.

The term "service ratings," as used in this act, shall be held to mean the evaluation of the efficiency and general worth of employees in positions subject to the provisions of this Act as determined by the department or agency head in the department or agency in which the employee is employed.

The term "dismissal," as used in this Act, shall be held to mean the discharge of the employee by the department or agency head.

The term "lay-off," as used in this Act, shall be held to mean the separation of an employee from the service because of a reduction of force owing to decreased work or decreased funds in the department or agency in which the employee has been employed.

The term "class" or "class positions," as used in this Act, shall be held to mean a position or group of positions subject to the provisions of this Act sufficiently similar in duties, responsibilities and qualification requirements to be designated by the same title and placed within the same salary range.

The term "reinstatement," as used in this Act, shall be held to mean the re-appointment of a person who formerly held a position, subject to the provisions of this Act, to such former position or to any other position in the same class.

The term "transfer," as used in this Act, shall be held to mean a change by an employee from one position to another within the same class.

The term "promotion," as used in this Act, shall be held to mean a change from a position in a lower class to a position in a higher class involving an increase in responsibility or a change in title.

The term "demotion," as used in this Act, shall be held to mean a change from a position in a higher class to a position in a lower class involving a decrease in responsibility or a change in title.

The term "suspension," as used in this Act, shall be held

to mean the separation of an employee from the service for a temporary or fixed period of time, which separation is inflicted upon the employee by his appointing authority, as a disciplinary measure under the rules established by the personel commission.

§ 2. *Appointment, Qualification, Compensation, Tenure, Removal and Meetings of the Personnel Commissioners.* There shall be created and established in cities of the first class a personnel commission to be governed by a board of five commissioners, said board to be composed of two members to be appointed by the Board of Trustees of the largest municipal university located in the said city, two members to be appointed by the Board of Education of said city and the Mayor of the said city shall be a member of the said commission *ex officio*. Each personnel commissioner appointed hereunder shall serve for a term of four years except for those first appointed under this Act, which shall be for terms of one, two, three and four years respectively. The Board of Trustees of the largest municipal university of said city shall appoint those personnel commissioners whose terms expire at the end of the first and third years respectively and shall appoint all successors to such personnel commissioners. The Board of Education of said city shall appoint those personnel commissioners whose terms expire at the end of the second and fourth years and shall appoint all successors to such personnel commissioners.

Provided further, however, any personnel commissioner appointed to fill the vacancy for any unexpired term shall be appointed only for the remainder of such unexpired term. Any personnel commissioner appointed according to the provisions of this act shall be eligible for reappointment. A personnel commissioner may be removed during his term of office by the authority by whom he was appointed.

Members of the personnel commission shall be at least twenty-five years of age and shall have been residents and

voters in the county in which said city is located for at least three years and no member of the said board shall be eligible for any appointive or elective office of the said city during the time he serves as a member of the said board. Each personnel commissioner may be paid a salary not to exceed a per diem allowance of Ten Dollars for each meeting attended. Provided, however, that the annual allowance of any one commissioner shall not exceed Three Hundred ($300.00) Dollars.

The personnel commissioners shall hold at least one regular meeting each month and may hold such additional meetings as may be required.

§ 3. *Personnel Director — Appointment, Duties and Compensation.* The personnel commissioners shall employ a personnel director, which personnel director shall be a person thoroughly in sympathy with the merit system and with the administration of personnel, and skilled therein, and shall be a person of recognized character and ability.

The personnel director may be removed only for cause and after public hearing by the personnel commissioners and after at least ten days notice shall have been given to the said director, which notice shall contain a copy of charges preferred against him.

The compensation of said personnel director shall be fixed by the personnel commissioners and approved by the legislative body of said city. The personnel director shall set up and direct the actual work of the personnel commission and perform such other functions as may be required of him by the personnel commissioners and shall appoint such assistants to the administrative staff of the personnel commission as may be necessary to carry out the provisions of this Act.

§ 4. *Rules to be Promulgated; Reports by Commission; Classification of Positions; Competitive Examinations; Selection of Employees; Promotions.* The personnel commission shall, after public notice and hearing, make, promulgate and when necessary, amend rules for the appointments, transfer,

laying-off, reinstatement, promotion, demotion, discharge and suspension of all employees of the personnel commission and of the Department of Public Health and Public Welfare (excepting however, the Director of Public Health and his private secretary, resident medical staff, University visiting staff and student nurses) which employees hold positions requiring technical training, special experiences and administrative responsibilities as set forth in this act, or included under its provisions by appropriate action of the Board of Aldermen of such cities; and for the classification of such employees for appointment, promotion and transfer and shall report its proceedings and rules to the legisaltive body, the Mayor and the Director of Public Welfare and the Director of Public Health. Such rules shall, among other things, provide:

(a) For the standardization and classification of such positions and employments in said departments, agencies and commission, which positions and employments require technical training, special experience or administrative responsibilities and the classification thereof into groups and subdivisions to be based upon and created according to the respective duties and responsibilities thereof and shall be so arranged as to promote the filling of the higher grade as far as practicable by promotion. The salary range shall be uniform as to the same standardization or classification;

(b) For open competitive tests to ascertain the relative fitness of all applicants for appointment to said positions or employments in the said departments, agencies and commissions, and such tests shall be practicable and relate to matters which will fairly measure the relative fitness of candidates to discharge the duties of the positions to which they seek appointment. Notice of such tests shall be given not less than ten days in advance by public advertisement in at least one newspaper of general circulation in the city and by posting notices in the City Hall;

(c) For the creation of eligible lists upon which shall be

entered the names of successful candidates in the order of their standing through examiantion; and, for the filling of places in said departments, agencies and commission by the heads thereof who shall select from not more than three candidates graded highest on such eligible list, which list shall remain in force not longer than one year. In the absence of any appropriate eligible list any position may be filled temporarily by the head of the department, agency or commission in which such position is to be filled, without examination, for a period not to exceed ninety days, during which time the personnel commission shall hold the necessary examination for the filling of the place regularly, but persons may be temporarily employed for emergency work without examination for the period of the emergency, in no event to exceed ninety days in any one fiscal year, such appointment to be an emergency appointment and the same shall not be renewed. No person shall be appointed or employed under any title not appropriate to the duties to be performed and no person shall be transferred to or assigned to perform any position subject to competitive tests unless he shall have been appointed to the position from which transfer is made as a result of an open competitive test equivalent to that required for the position to be filled. Each list of eligibles with the respective grades shall be open to public inspection. Any person appointed from the eligible list and laid off for lack of work or lack of appropriation shall be placed at the head of the eligible list and shall be eligible for re-appointment for a period of eligibility as provided by the rules of the board;

(d) For a period of probation not exceeding twelve months nor less than six months before an appointment or employment is made a regular appointment;

(e) For reinstatement on the eligible list of persons who, without default or delinquency, are separated from the service;

(f) For promotion from the lower grades to the

higher based on records of efficiency and seniority to be furnished by the department, agency or commission in which the person is employed and kept by said personnel commission, or upon competitive promotion tests, or both.

§ 5. *Appointments—Probationary, Regular and Emergency.* All appointments to the positions subject to the provisions of this Act shall be made solely on the basis of merit and fitness, to be determined by competitive examinations, except in the case of emergency appointments which may be made only in accordance with the definition given in Section 1; provided that all original appointments, except emergency appointments as defined in Section 1 of this act, shall be probationary appointments for a period of not less than six nor more than twelve months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by their respective department, agency or commission head.

In the case of emergency appointments as defined in Section 1 of this act, all appointments to positions subject to the provisions of this act shall be made by appointing authorities only from an eligible list certified by the personnel commissioner as qualified and eligible for appointment from an appropriate eligible list as defined in Section 1 of this act.

§ 6. *Dismissals and Demotions.* Dismissals or demotions of employees in positions subject to the provisions of this Act may be made only by the appointing authority upon the filing of written statements of the reasons of such dismissals or demotions with the personnel commission, provided that copies of all such statements shall be furnished to the employee so dismissed or demoted, on or before the effective date of such dismissal or demotion, provided further that employees holding probationary appointments may be dismissed without the appointing authority being required to furnish either the personnel commission or the dismissed or

demoted employee with a written statement of the reasons for such dismissal or demotion.

The personnel commission shall investigate and determine the justification for all dismissals or demotions reported according to the provisions of this section and shall make recommendations according to its findings, approving or disapproving the dismissal or demotion so reported. If the personnel commissioners disapprove any such dismissal or demotion they shall recommend the reinstatement or transfer of such dismissed or demoted employee. Copies of the recommendations of the personnel commissioners shall be given to the appointing authority making the dismissal or demotion and to the dismissed or demoted employee.

The appointing authority receiving such a recommendation shall have the option of either accepting or rejecting such recommendation, providing that all such recommendations made by the personnel commissioners shall be public records, and providing further that the personnel commissioners may reinstate a dismissed or demoted employee over the action of the appointing authority only in case it appears after a proper investigation that the dismissal or demotion was made for religious or political reasons.

The personnel commission, in investigating the dismissal or demotion of employees subject to the provisions of this Act, shall have the power to subpoena and require attendance of witnesses to give testimony and to administer oaths to such witnesses.

Nothing in this Act shall permit the dismissal or demotion of any employee subject to the provisions of this Act on account of religious faith or political affiliation.

§ 7. *Other Functions of the Personnel Commission.* The personnel commission shall perform such other functions as may relate to the efficiency of the personnel under its jurisdiction, including the maintenance of the personnel classification plan and the administration of service ratings, attend-

ance record, training programs, promotions, transfers, layoffs, suspensions, reinstatements and related activities. The personnel commissioners shall prepare rules for the administration of these functions, and shall make an annual report to the Mayor of activities of the personnel commission together with recommendations concerning personnel policies, which report shall constitute and be a public record open to inspection by interested citizens and taxpayers.

§ 8. *Extension of Act to Other Positions, Departments or Agencies.* The provisions of this Act may be extended by city ordinance to include additional positions or classes of positions in the Department of Health and the Department of Welfare and in any other departments of cities of the first class except the Divisions of Police and Fire in the Department of Safety. And it is further provided that any independent agency of the city government may adopt the provisions of this Act for such positions or classes of positions in such agency as the governing body of such agency may designate, and when the provisions hereof shall have been so extended by city ordinance or by action of the governing body of any independent agency then all of the provisions of this Act shall be applied to such positions in such departments or agencies the same as if originally included herein; the effective date of any extension of the provisions of this Act to include additional positions or classes of positions shall be considered as the effective date of this act for such positions or classes of positions.

Employees holding positions subject to the provisions of this Act on the effective date hereof shall be considered as having satisfied all of the qualifications for obtaining original appointments under this Act and shall be considered as having been given probationary appointments as defined in Section 1 of the Act as of the effective date of the Act.

§ 9. *Prohibition of and Penalty for Political Activity and Contributions.* No person in the competitive service

shall directly or indirectly solicit or remit funds or in any manner be concerned with the soliciting for or remitting funds to any political party or any candidate for public office; nor shall any person take any active part in political campaigns or be a member of any campaign committees or governing committees of any political organization. Nothing herein contained, however, shall be construed so as to prevent the personnel commission from making more stringent rules and degulations relative to political activity or participation on the part of the employees subject to the provisions of this Act.

Any violation of this section shall operate to forfeit the office or position held by the person violating the same and shall render any such person ineligible to any municipal office or position in said city coming under the provisions of this Act for a period of one year.

§ 10. *Penalties.* Any person who shall willfully, knowingly or through culpable negligence violate any of the provisions of this Act, shall be guilty of a misdemeanor and shall upon conviction thereof be subject to a fine of not less than fifty dollars nor more than five hundred dollars; provided that the provisions of this section shall not apply to Section 9 of this Act.

§ 11. *Appropriations.* The legislative body of each city of the first class shall pass such ordinances, levy such taxes and provide such appropriations as are necessary to make this act effective.

§ 12. *Validity.* Should any section, paragraph, sentence, clause or phrase of this act be declared unconstitutional or invalid for any reason, the remainder of said act shall not be affected thereby.

§ 13. *Date of Effect.* The act shall become effective as soon as possible after its passage and approval, but in no event later than January 1, 1938.

Mr. Gnau offered the following amendment to said bill, viz.:

Amend H. B. 21 by striking therefrom in the printed copy, page 12, Section 13, lines 2 and 3, the words and figures "January 1, 1938" and by inserting in lieu thereof the words and figures "September 1, 1937".

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Garland Embry	J. H. Jones
B. F. Bedford	Walter R. Fannin	R. T. Kirkman
Reuben J. Boling	H. Myer Garner	J. F. Ladd
Douglas Bolling	G. W. Garrett	Leslie Larrimore
Wallace Brown	Ferd A. Gnau	Robert E. Lee
Dr. R. A. Byers	Eugene Gough	Lloyd MacDonald
Jas. C. Carter	Ben Grogan	W. F. McGary
V. O. Chandler	Jas. T. Hamilton	Elmer McGlothen
Roscoe Claxon	C. L. Hammons	John Marshall
George S. Clay	W. L. Hampton, Jr.	C. S. Matherly
Roy Conway	Thomas W. Hines	D. T. Matlack
Herbert Cook	Price Holbrook	Duke Mayfield
Harry Davis	Clyde S. Howard	John B. Mollett
Sam Dever	Ira W. Hulette	W. E. Mull
Howard G. Early	Ben W. Johnson	Tyler Munford

Rodes K. Myers	A. W. Ross	H. C. Steely
Russell O'Neill	Carl Scheben	Henry Stewart
Mel Petry	Carl Schneider	Dr. H. S. Swope
A. W. Pfeiffer	Ray O. Shehan	W. R. Tapp
J. C. Ramey	Dr. B. F. Shields	Henry Ward
Hobart Rayburn	P. L. Sidebottom	W. G. Williams
L. K. Rice	Chester D. Silvers	
W. T. Rollo	Bruce Sloan	—67

Resolved that the title thereof be as aforesaid.

Mr. Gnau moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 20. An Act providing for a supplementary appropriation for the Department of Welfare for the fiscal year 1936-1937.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

There is hereby appropriated out of the General Expenditure Fund for the use of the Department of Welfare in the fiscal year 1936-1937 for salaries, clerical hire, traveling expenses, printing, stamps and necessary supplies for said Department, and the cost of operation, maintenance, improvements, repairs and all operating expenses for the State Reformatory, at Frankfort; the State Penitentiary, at Eddyville; Western State Hospital for the Insane, at Hopkinsville; Central State Hospital for the Insane, at Lakeland; Eastern State Hospital for the Insane, at Lexington; Institution for the Feeble-Minded, at Frankfort; the Houses of Reform, at

Greendale, and such other institutions, or branch institutions, as may hereafter be established, and for the administration and operation of the division of child welfare, the laboratory of criminal identification and statistics, the Probation and Parole Act, the sum of $300,000.00.

Mr. Tapp moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Roy Conway	C. L. Hammons
C. W. Anderson, Jr.	Herbert Cook	W. L. Hampton, Jr.
H. T. Baker	Harry Davis	Thomas W. Hines
B. F. Bedford	Sam Dever	Clyde S. Howard
Reuben J. Boling	Howard G. Early	Ira W. Hulette
Douglas Bolling	Garland Embry	Ben W. Johnson
Wallace Brown	Walter R. Fannin	J. H. Jones
Dr. R. A. Byers	T. P. Fitzpatrick	R. T. Kirkman
Jas. C. Carter	G. W. Garrett	J. F. Ladd
V. O. Chandler	Ferd A. Gnau	Leslie Larrimore
Floyd Clark	Eugene Gough	Robert E. Lee
Roscoe Claxon	Ben Grogan	T. B. McConnell
George S. Clay	Jas. T. Hamilton	Lloyd MacDonald

W. F. McGary	Mel Petry	P. L. Sidebottom
John Marshall	A. W. Pfeiffer	Chester D. Silvers
D. T. Matlack	J. C. Ramey	Bruce Sloan
Duke Mayfield	Hobart Rayburn	H. C. Steely
G. S. Milam	L. K. Rice	Henry Stewart
W. H. Miller	Wade H. Riley	Dr. H. S. Swope
John B. Mollett	Joe E. Robinson	W. R. Tapp
W. E. Mull	W. T. Rollo	Henry Ward
Tyler Munford	Carl Scheben	L. R. Wells
Rodes K. Myers	Carl Schneider	W. G. Williams
J. C. Nickell	Ray O. Shehan	
Russell O'Neill	Dr. B. F. Shields	—73

Resolved that the title thereof be as aforesaid.

Mr. Tapp moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 12. Resolution for the benefit of Ben Haskney, Kaley Barker, Powell Thomas, John H. Twyman, Thomas Moon, Ada O'Nan, Hilton King and George Combs, state employees engaged to keep the State Capitol clean.

With Committee amendments thereto.

Said resolution is as follows, viz.:

WHEREAS, the above named employees have had their work materially increased during the session of the present Assembly of the Commonwealth of Kentucky and have worked overtime to keep the State Capitol clean for said session,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That said Ben Haskney, Kaley Barker, Powell Thomas,

John H. Twyman, Thomas Moon, Ada O'Nan, Hilton King and George Combs, be each allowed the sum of one dollar per day for each day of the present session of this General Assembly, which allowance shall be in addition to what they now receive for their services as above set out. All of said amounts to be paid by the Treasurer on warrants drawn on him by the Auditor of Public Accounts out of any fund not otherwise appropriated.

Said Committee amendments are as follows, viz.:

1. Amend H. Res. 12 by adding after the name of George Combs, the following names: Lester E. Moore, Earl White, Norman Kirk and John Tackett.

2. Amend H. Res. 12 by adding after the word "appropriation" the following words: "Provided that no employee shall receive exceeding the sum of twenty dollars."

Said amendments were each agreed to.

Mr. Gnau moved that the vote by which Committee amendment No. 2 was agreed to be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, said Committee amendment No. 2 was agreed to.

Mr. Silvers offered the following amendment to said resolution, viz.:

Amend H. Res. 12 by adding the name "Fletcher Davis".

Said amendment was agreed to.

Ordered that said resolution be engrossed and read the third time.

The constitutional provision as to the third reading of said resolution at length being dispensed with and the same being engrossed, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance to the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	Jas. T. Hamilton	Mel Petry
H. T. Baker	C. L. Hammons	A. W. Pfeiffer
W. T. Baker	W. L. Hampton, Jr.	Hobart Rayburn
B. F. Bedford	Thomas W. Hines	Harry C. Records
Reuben J. Boling	Price Holbrook	L. K. Rice
Douglas Bolling	Ira W. Hulette	Joe E. Robinson
Wallace Brown	Ben W. Johnson	W. T. Rollo
Dr. R. A. Byers	J. H. Jones	A. W. Ross
Jas. C. Carter	R. T. Kirkman	Carl Scheben
V. O. Chandler	J. F. Ladd	Carl Schneider
George S. Clay	Leslie Larrimore	Ray O. Shehan
Roy Conway	Robert E. Lee	P. L. Sidebottom
Herbert Cook	T. B. McConnell	Chester D. Silvers
Harry Davis	Lloyd MacDonald	Bruce Sloan
Stanley S. Dickson	W. F. McGary	H. C. Steely
Garland Embry	John Marshall	Henry Stewart
Walter R. Fannin	C. S. Matherly	Dr. H. S. Swope
T. P. Fitzpatrick	G. S. Milam	W. R. Tapp
H. Myer Garner	W. E. Mull	J. J. Thomas
G. W. Garrett	Tyler Munford	Joseph L. Wall
Ferd A. Gnau	Rodes K. Myers	Henry Ward
Eugene Gough	J. C. Nickell	
Ben Grogan	Russell O'Neill	—67

There voted in the negative—

Elmer McGlothen —1

Mr. Tapp offered the following amendment to the title of said resolution, viz.:

Amend the title to H. Res. 12 by adding after the name "George Combs" the names "Lester E. Moore, Earl White, John Thomas, Norman Kirk, John Tackett and Fletcher Davis."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Tapp moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 15. Joint Resolution for the benefit of the ministers of the churches of Frankfort, Kentucky:

Said resolution is as follows, viz.:

Whereas, at the invitation of the General Assembly of Kentucky the ministers of the various churches of the city of Frankfort have officiated at the opening of the daily sessions of the General Assembly during the regular sessions of 1936 and during each special session, including the current special session,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the sum of One Hundred ($100.00) Dollars to each

of the following named ministers hereby is appropriated, allowed and directed to be paid, namely:

Rev. R. B. Kelly,
Rev. Joseph A. O'Dwyer,
Rev. Hampton Adams,
Rev. A. G. Stone,
Rev. Olof Anderson,
Rev. Alexander M. Warren,
Rev. Ross E. Dillon.

The Clerk of the House is directed to prepare certification in favor of each of the above named ministers for the sum of $100.00 as compensation for their services, and present or cause same to be presented to the Auditor of Public Accounts, who will draw his warrant upon the State Treasurer in favor of each of the above named ministers for the sum of $100.00, and pay same out of and charge same to the appropriation made by House Bill No. 5, enacted by the present session of the General Assembly and approved by the Governor, the same being allowed and approved as a contingent expense of the present special session of the General Assembly.

Ordered that said resolution be read the third time.

The constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.	B. F. Bedford	Wallace Brown
H. T. Baker	Reuben J. Boling	Dr. R. A. Byers
W. T. Baker	Douglas Bolling	Jas. C. Carter

V. O. Chandler	Ben W. Johnson	J. C. Ramey
George S. Clay	J. H. Jones	Hobart Rayburn
Roy Conway	R. T. Kirkman	L. K. Rice
Herbert Cook	J. F. Ladd	Wade H. Riley
Harry Davis	Leslie Larrimore	W. T. Rollo
Sam Dever	Robert E. Lee	A. W. Ross
Stanley S. Dickson	T. B. McConnell	Carl Scheben
Howard G. Early	Lloyd MacDonald	Carl Schneider
Walter R. Fannin	W. F. McGary	Ray O. Shehan
T. P. Fitzpatrick	John Marshall	Dr. B. F. Shields
H. Myer Garner	C. S. Matherly	P. L. Sidebottom
G. W. Garrett	Duke Mayfield	Chester D. Silvers
Ferd A. Gnau	G. S. Milam	Bruce Sloan
Eugene Gough	W. E. Mull	H. C. Steely
Ben Grogan	Tyler Munford	Henry Stewart
C. L. Hammons	Rodes K. Myers	Dr. H. S. Swope
W. L. Hampton, Jr.	J. C. Nickell	W. R. Tapp
Price Holbrook	Russell O'Neill	J. J. Thomas
Clyde S. Howard	Mel Petry	Henry Ward
Ira W. Hulette	A. W. Pfeiffer	W. G. Williams

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Resolved that the title thereof be a saforesaid.

Mr. Hulette moved that the vote by which said resolution was adopted be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 22. An Act relating to the office of sheriff, providing additional duties, powers and compensation therefor; repealing oll parts of Sections 3780, 3781, 3782, 3783, 3784, 3785 and 3786, Kentucky Statutes, Carroll's 1930 and 1936 Editions, except those part in each of said sections relating to

patrols in counties in this Commonwealth having cities of the first and second classes; and declaring that an emergency exists.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. There is hereby created and established a County Highway Patrol and Investigator for each county for the Commonwealth of Kentucky, and the duties thereof shall be performed by the qualified and acting sheriff and his duly appointed and qualified deputy sheriffs in each county.

§ 2. It shall hereafter be the duty of the sheriff and his appointed and qualified deputies to patrol each public road and highway in his county, and to direct, regulate and control the traffic on said roads and highways so as to maintain a maximum degree of safety to the general public in the use thereof. He shall, as soon as he can do so, after receiving information of their occurrence, investigate all accidents, collisions and wrecks occurring upon said roads and highways, and, when possible, determine the position of each of the vehicles connected therewith immediately before and after each accident, collision or wreck, and make and record the measurement and direction and location of all tracks, marks and visible impressions made on and about the highway where accidents, collisions or wrecks have occurred that appear to have been made by the vehicles or either of them connected therewith, or by the parties owning, operating or occupying said vehicles at the time of the accident, collision or wreck that have a tendency to disclose what was the cause thereof, and to make a record in his office of his said observations and findings. He shall also ascertain, if possible, the license number of each of the vehicles connected therewith, the number of each engine and the make of each car, and the name of the state, territory, district, department and county issu-

ing said license, and the name and address of the owner or operator of said vehicle, and the name and address of each occupant of said vehicles in said accident, collision or wreck. and the name and address of each witness thereof, and the name and address of each person who immediately thereafter came upon the ground or who saw evidence of the position of the vehicles immediately before or after the accident, collision or wreck, or who heard a statement or statements as to how or who caused the accident, collision or wreck made by the parties who owned, operated or occupied either of the vehicles connected therewith. When any person is wounded or killed, or there is reason to believe that criminal negligence or carelessness was the cause of the accident, collision or wreck, said officer making the inspection, shall take affidavits or statements from all witnesses who have information of incriminating facts connected therewith, and for the purpose of securing said affidavits or statements, each sheriff and his authorized deputy is authorized and empowered, forthwith and upon his own initiative, to issue and serve a subpoena upon said witnesses requirng them to testify, and is hereby authorized and empowered to administer an oath to each of said witnesses before testifying, and to reduce to writing said testimony, and he shall return said affidavits and statements, together with a report in writing of all information required, to the county attorney of his county and a duplicate of said report and statements or affidavits to the circuit court clerk of his county for submission to the foreman of the grand jury next to be convened in said county.

§ 3. Said sheriff or his deputies shall visit, inspect and investigate the way and manner each owner or operator of any public house, hall, pavilion, ground or place where music is furnished or permitted, or where public dancing is conducted or permitted, and also all camps, restaurants, roadhouses, or any place where intoxicating liquors are sold or furnished or permitted to be sold or furnished to the public,

or where men and women are furnished rooms for lodging either in the day or the night in said county at least once each month, and to report in writing to the county attorney of his county his conclusions, together with the name and address of any witness who claims knowledge of any violation of law at said place or places or of any disturbance occurring at said place or places, and shall also file with the circuit court clerk of his county a duplicate of each of said reports, to be delivered to the foreman of the grand jury next to be convened in said county.

§ 4. Each county sheriff for the additional services herein required shall receive reasonable compensation therefor of not less than One Thousand Dollars ($1,000.00), and not more than Two Thousand Dollars ($2,000.00), per annum, to be determined by the fiscal court of the county and paid by the treasurer thereof, provided the compensation of said officer as sheriff, together with his other compensation as sheriff, as now provided by law, shall not in any year exceed a total of Five Thousand Dollars ($5,000.00) together with the reasonable compensation of his deputy sheriffs and the expenses of his office as sheriff as now allowed by law, said additional compensation to commence from the effective date of this Act.

§ 5. All parts of Sections 3780, 3781, 3782, 3783, 3784, 3785, and 3786, Kentucky Statutes, Carroll's 1930 and 1936 Editions, except those parts in each of said sections relating to patrols in counties in this Commonwealth having cities of the first and second classes are hereby repealed.

§ 6. Nothing in this Act shall be construced to affect or impair the duties or obligations of County Patrols in counties having a city of the first or second class, State Highway Patrols, Field Representatives of the Division of Motor Transportation or any other officer of the state, county, city or town, not mentioned herein, irrespective of whether or not

enumerated herein or similar to those enumerated herein, that are not by the terms of this Act abolished.

§ 7. Whereas, the protection of the health, safety and morals of the community require the immediate performance of the additional services herein required of each sheriff and his deputies in each county of Kentucky, an emergency is hereby declared to exist, and this Act shall become a law and be effective on its passage by the General Assembly and its approval by the Governor.

Mr. Myers offered the following amendments to said bill, viz.:

Amend H. B. 22, page 3, Section 4, by striking out the words "by the fiscal court of the county" and inserting in lieu thereof the words "by the Auditor of Public Accounts of the Commonwealth".

Amend H. B. 22, on page 3, line 5, by inserting after the word "thereof" the following words: "out of the General Fund".

Said amendments were each agreed to.

Mr. Clay moved that said bill be made a Special Order of the Day for today at one-forty-five o'clock P. M.

Said motion was disagreed to.

Amend H. B. 22 by adding Section 4-a:

Section 4-a. The Auditor in determining the amount to be paid shall pay to such sheriffs that sum of money which will not cause the sheriff to draw in excess of the largest sum heretofore received by the Sheriff during the tenure of his

office or of his predecessor and in no event in excess of the constitutional limit.

Said amendment was agreed to.

Mr. Myers offered the following amendment to said bill, viz.:

Amend H. B. 22 by striking out the words and figures "Two Thousand Dollars ($2,000.00) and insert in lieu thereof the words and figures "Fifteen Hundred Dollars ($1,-500.00)".

Said amendment was agreed to.

Mr. Joe Robinson offered the following amendment to said bill, viz.:

Amend H. B. 22 by adding thereto the following:

This bill shall apply only to the present term.

Said amendment was disagreed to.

Mr. Milam offered the following amendment to said bill, viz.:

Amend H. B. 22 by striking from lines 2 and 3, on page 3 of the printed bill, Section 4, the following words and figures: "of not less than One Thousand Dollars ($1,000.00) and".

Said amendment was disagreed to.

Mr. Silvers offered the following amendment to said bill, viz.:

Amend H. B. 22 by adding a section on page 4 and designated as Section 6-a, said section being as follows:

"The provisions of this Act shall in no wise affect counties having cities of the first and/or second class."

Said amendment was disagreed to.

Mr. Gnau moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Roscoe Claxon	C. L. Hammons
C. W. Anderson, Jr.	George S. Clay	W. L. Hampton, Jr.
H. T. Baker	Roy Conway	Thomas W. Hines
W. T. Baker	Herbert Cook	Price Holbrook
B. F. Bedford	Harry Davis	Clyde S. Howard
Reuben J. Boling	Sam Dever	Ira W. Hulette
Douglas Bolling	Walter R. Fannin	John M. Hunnicut
Ollie J. Bowen	T. P. Fitzpatrick	Ben W. Johnson
Wallace Brown	H. Myer Garner	J. H. Jones
Dr. R. A. Byers	G. W. Garrett	R. T. Kirkman
Jas. C. Carter	Ferd A. Gnau	J. F. Ladd
V. O. Chandler	Ben Grogan	Leslie Larrimore
Floyd Clark	Jas. T. Hamilton	Robert E. Lee

T. B. McConnell	J. C. Nickell	P. L. Sidebottom
Lloyd MacDonald	Russell O'Neill	Chester D. Silvers
W. F. McGary	A. W. Pfeiffer	Bruce Sloan
Elmer McGlothen	Hobart Rayburn	H. C. Steely
John Marshall	Harry C. Records	Henry Stewart
C. S. Matherly	L. K. Rice	Dr. H. S. Swope
Duke Mayfield	Wade H. Riley	W. R. Tapp
G. S. Milam	W. T. Rollo	J. J. Thomas
W. H. Miller	A. W. Ross	S. J. Wagner
John B. Mollett	Carl Scheben	Joseph L. Wall
W. E. Mull	Carl Schneider	L. R. Wells
Tyler Munford	Ray O. Shehan	W. G. Williams
Rodes K. Myers	Dr. B. F. Shields	—77

Those who voted in the negative were—

J. C. Ramey	John C. Robinson	Henry Ward
Joe E. Robinson		—4

Resolved that the title thereof be as aforesaid.

Mr. Myers moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Speaker announced that he had added to the personnel of the Committee on Kentucky Statutes No. 1 the following: Carl Schneider and H. H. Allen.

Dr. Shields moved that the House do now recess until one–forty-five o'clock, P. M.

Said motion was agreed to.

And then the House recessed.

The hour of one–forty-five o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Dr. Shields moved that the Rules of this House be suspended for the purpose of making Committee reports.

Said motion was agreed to.

Thereupon Dr. Shields of the Committee on Kentucky Statutes No. 1, to which the same had been previously referred, reported a bill entitled:

S. B. 21. An Act relating to the use of funds held by the counties under the terms of Section 14, Chapter 25 of the General Assembly Special Session, 1934.

With the expression of opinion that said bill ought to pass.

Said bill was read at length the first time and ordered to be placed on the Calendar.

The hour of two o'clock P. M. having arrived, that being the hour for the Special Order of the Day, to wit: a bill entitled:

H. B. 19. An Act relating to unfair sales in wholesale and retail trade, making certain unfair and discriminatory practices unlawful, etc.

Mr. Joe Robinson moved that the consideration of said Special Order be postponed until two-thirty o'clock P. M.

Said motion was agreed to.

Mr. Munford moved that Miss Peggy Gnau, daughter of The Hon. Ferd Gnau of Louisville, Kentucky, be appointed an Honorary Page of this House.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in this House, entitled.

H. B. 9. An Act to repeal and re-enact Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, etc.

With Amendments thereto as proposed by the Senate.

Mr. Hunnicutt moved that the Rules of this House be suspended for the purpose of introducing resolutions.

Said motion was agreed to.

Thereupon Mr. Hunnicutt offered the following resolutions, viz.:

H. Res. 17. Resolution authorizing the personal representative of Jasper H. Barnett to sue the Commonwealth of Kentucky and the State Highway Commission or either of them.

Said resolution is as follows, viz.:

Whereas, on or about the 2nd day of November, 1935, Jasper H. Barnett, a resident of Royalton, Kentucky, received injuries while walking along a public highway as a result of being run into and struck by a truck which was owned at the time and being operated by the employees of the State Highway Department. Said Jasper H. Barnett was severely injured and it is claimed that said injuries and death resulting therefrom on the 2nd day of November, 1935, were caused and brought about by the gross negligence and carelessness of the State Highway Department, its agents, servants and employees, in the operation of said truck belonging to the Commonwealth of Kentucky and/or the State High-

way Commission. And it is further claimed that the injuries and resulting death of the said Jasper H. Barnett was caused and brought about by the carelessness and negligence of said employees while in the discharge and conduct of State business.

Whereas, the cause of action against the Commonwealth of Kentucky and the State Highway Commission, or either of them, will be outlawed by reason of the Statutes of Limitations, the same is hereby waived as a defense to said action and cause may proceed to trial on its merits. Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the personal representative of Jasper H. Barnett be, and he or she is hereby authorized and permitted to sue the Commonwealth of Kentucky and the Department of Highways, or either, in the Circuit Court of the county of his residence, or any other county in this Commonwealth, for damages resulting from the wrongful death of said Jasper H. Barnett, which was brought about and caused by the negligence of the employees of the Commonwealth of Kentucky and/or the Department of Highways. Said suit shall be for any amount not exceeding Twenty Thousand Dollars ($20,000.00), and in the event any judgment is recovered by the said personal representative in this suit for wrongful death, or same is compromised or settled, said judgment, compromise or settlement shall be paid by the Auditor of Public Accounts, drawn by warrant on the State Treasurer and paid out of the Department of Highway's fund.

And the Statute of Limitations is hereby waived by the Commonwealth of Kentucky and the State Highway Commission, or either of them, as a defense to said action.

Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil suit, and the case may be settled and adjusted with the consent and ap-

proval of the Attorney General of Kentucky in the same way as any other civil action.

H. Res. 18. Resolution authorizing the personal representative of William Anderson to sue the Commonwealth of Kentucky and the State Highway Commission or either of them.

Said resolution is as follows, viz.:

Whereas, on or about the 14th day of December, 1935, William Anderson, a resident of Ludlow, Kenton County, Kentucky, received injuries while traveling on U. S. Highway No. 25, about one mile south of Bracht Station, Kentucky, from which injuries the said William Anderson died, wherein it is claimed that the said injuries and death was caused by the car in which said William Anderson was riding running into a large hole in said highway about four square feet in width and five inches in depth, causing the automobile in which he was riding to be overturned. It being further contended that the condition of the highway was caused and created by the removal of the paved portion of the highway by agents and employees of the Department of Highways and/or the Commonwealth of Kentucky, and since there were no warning signs or other indications of the defective condition of the highway, which it is contended the Commonwealth of Kentucky and/or the Department of Highways, by and through its agents and employees knew or in the exercise of ordinary care should have known of the existence of the said defective condition of the highway, which is contended to be the proximate cause of the death of William Anderson.

Whereas, the cause of action against the Commonwealth of Kentucky and the State Highway Commission, or either of them, will be outlawed by reason of the Statute of Limitation, and same is hereby waived as a defense to said action, and the cause may proceed to trial on its merits. Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the personal representative of William Anderson be and he or she is hereby authorized and permitted to sue the Commonwealth of Kentucky and the Department of Highways, or either, in the Kentucky Circuit Court, the county in which the accident occurred, for damages resulting from the wrongful death of William Anderson, which was brought about and caused by the negligence of the employees of the Commonwealth of Kentucky and/or the Department of Highways. Said suit shall be for any amount not exceeding Twenty Thousand Dollars ($20,000.00) and in the event any judgment is recovered by the said personal representative if this suit for wrongful death, or same is compromised or settled, said judgment, compromise or settlement shall be paid by the Auditor of Public Accounts, drawn by warrant on the State Treasurer and paid out of the Department of Highways' fund.

And the Statute of Limitations is hereby waived by the Commonwealth of Kentucky and the State Highway Commission, or either of them, as a defense to said action.

Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil action.

The Speaker ruled that said resolutions were not in order inasmuch as the subject matter of said resolution did not come within the province of the call for this Special Session of the General Assembly.

Dr. Shields moved that the Rules of this House be suspended for the purpose of making a Committee report.

Said motion was agreed to.

Thereupon Dr. Shields of the Committee on Kentucky Statutes No. 1, to which the same had been previously referred, reported a resolution entitled:

S. Res. 12. Resolution ratifying the proposed amendment to the Constitution of the United States, to authorize Congress to limit, regulate and prohibit the labor of persons under eighteen years of age.

With the expression of opinion that said resolution ought to pass.

(For resolution, see Journal of today, *ante*.)

Said resolution was then adopted.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	H. Myer Garner	John B. Mollett
Henry H. Allen	Ben Grogan	W. E. Mull
C. W. Anderson, Jr.	W. L. Hampton, Jr.	Rodes K. Myers
H. T. Baker	Thomas W. Hines	J. C. Nickell
W. T. Baker	Price Holbrook	Russell O'Neill
B. F. Bedford	Ira W. Hulette	Mel Petry
Douglas Bolling	Ben W. Johnson	J. C. Ramey
Ollie J. Bowen	J. H. Jones	Harry C. Records
V. O. Chandler	O. C. Jones	L. K. Rice
Floyd Clark	J. F. Ladd	Joe E. Robinson
Roscoe Claxon	M. T. McCarthy	John C. Robinson
George S. Clay	W. F. McGary	W. T. Rollo
Roy Conway	John Marshall	Carl Scheben
Herbert Cook	C. S. Matherly	Carl Schneider
Howard G. Early	D. T. Matlack	Dr. B. F. Shields
Garland Embry	Duke Mayfield	P. L. Sidebottom
Chas. P. Farnsley	G. S. Milam	Chester D. Silvers

Henry Stewart	J. J. Thomas	W. G. Williams
Dr. H. S. Swope	Joseph L. Wall	John Kirtley, Spkr.
W. R. Tapp	Henry Ward	—59

Those who voted in the negative were—

Reuben J. Boling	Jas. T. Hamilton	A. W. Pfeiffer
Wallace Brown	C. L. Hammons	Hobart Rayburn
Dr. R. A. Byers	Clyde S. Howard	Wade H. Riley
Jas. C. Carter	John M. Hunnicut	Ray O. Shehan
Harry Davis	R. T. Kirkman	H. C. Steely
Sam Dever	Leslie Larrimore	S. J. Wagner
T. P. Fitzpatrick	Robert E. Lee	Charles Wylie
G. W. Garrett	Elmer McGlothen	
Ferd A. Gnau	Tyler Munford	—25

Mr. Scheben moved that the vote by which said resolution was adopted be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The hour of two-thirty o'clock P. M. having arrived, that being the hour for the Special Order of the Day, to wit, a bill entitled:

H. B. 19. (For title see Journal of today, *ante*.)

The House took up for consideration said bill.

Said bill is as follows, viz.:

H. B. 19. An Act relating to unfair sales in wholasale and retail trade, making certain unfair and discriminatory practices unlawful, defining words, phrases, and terms used, providing for actions to enjoin unfair sales, making the violation of the provisions of this Act a misdemeanor and providing penalties therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Definitions.* The words and phrases used herein shall, unless the context otherwise indicates, have the following meanings:

(a) The term "cost to the retailer" shall mean whichever is lower of the following: (1) The purchase price of the merchandise to the retailer at the retail outlet, or (2) the replacement cost of such merchandise to the retailer, in the quantity last purchased by the retailer, within thirty (30) days prior to the sale of such merchandise by the retailer; Less any trade discounts, but exclusive of discounts for cash, and Plus a mark-up amounting to less than the minimum cost of distribution by the most efficient retailer, which mark-up, in the absence of proof to the contrary, shall be twelve per cent (12%); provided that, in the event a cost of distribution lower than twelve per cent (12%) can be proven by the retailer, then the mark-up shall be reduced to such lower figure. In all retail sales involving more than one item or commodity the retailer's selling price on individual items or commodities shall be computed on the "cost to the retailer" as herein defined.

(b) The term "cost to the wholesaler" shall mean whichever is lower of the following: (1) The purchase price of the merchandise to the wholesaler at the wholesale outlet or (2) the replacement cost of such merchandise to the wholesaler, in the quantity last purchased by the wholesaler, within sixty (60) days prior to the sale of such merchandise by the wholesaler; Less and trade discounts, but exclusive of discounts for cash, and Plus a mark-up amounting to less than the minimum cost of distribution by the most efficient wholesaler, which mark-up, in the absence of proof to the contrary, shall be three per cent (3%); provided that, in the event a cost of distribution lower than three per cent (3%) can be proven by the wholesaler, then the mark-up shall be

reduced to such lower figure. In all wholesale sales involving more than one item or commodity, the wholesaler's selling price on individual items or commodities shall be computed on the "cost to the wholesaler" as herein defined.

(c) The terms "cost to the retailer" and "cost to the wholesaler" must be *bona fide* costs, and sales to retailers and wholesalers at prices which cannot be justified by existing market conditions within this State shall not be used as a basis for computing costs with respect to sales by retailers and wholesalers.

(d) The terms "sell at retail", "sales at retail", and "retail sales" shall mean and include any transfer for a valuable consideration, made in the ordinary course of trade or in the usual prosecution of the seller's business, of title to tangible personal property to the purchaser for consumption or use other than resale or reprocessing of manufacturing. The above terms shall mean any transfer of such property where title is retained as security for the purchase price but is intended to be transferred later.

(e) The terms "sell at wholesale", "sales at wholesale", and "wholesale sales" shall mean and include any transfer for a valuable consideration, made in the ordinary course of trade or the usual prosecution of the seller's business, title to tangible personal property to the purchaser for resale. The above terms shall mean any transfer of such property where title is retained as security for the purchase price but is intended to be transferred later.

(f) The term "retailer" shall mean and include every person, partnership, firm, corporation or association engaged in the business of making sales at retail within this State.

(g) The term "wholesaler" shall mean and include every person, partnership, firm, corporation or association engaged in the business of making sales at wholesale within this State.

(h) Any person, partnership, firm, corporation, or as-

sociation performing the functions of both wholesaler and retailer, are subject to all the provisions of this Act dealing with both wholesaler and retailer as defined in this Section.

§ 2. It is hereby declared that advertising, offers to sell or sales by retailers or wholesalers at less than cost as defined in this Act, with the intent or effect of inducing the purchase of other merchandise or of unfairly diverting trade from a competitor or otherwise injuring a competitor, impair, and prevent fair competition, injure public welfare, and are unfair competition and contrary to public policy, where the result of such advertising, offers or sales is to deceive or mislead any purchaser or prospective purchaser or to substantially lessen competition or unreasonably restrain trade or tend to create a monopoly in any line of commerce. It is further declared that such advertising, offers or sales by any retailer or wholesaler with such intent or effect or result are in contravention of the policy of this Act.

§ 3. Where a particular trade or industry, of which the person, firm, or corporation complained against is a member, has an established cost survey for the locality and vicinity in which the offense is committed, the said cost survey shall be deemed competent evidence to be used in proving the costs of the person, firm or corporation complained against within the provisions of this Act.

§ 4. Any retailer who shall, in contravention of the policy of this Act, advertise, offer to sell or sell at retail any merchandise at less than cost to the retailer as defined in this Act, or any wholesaler who shall, in contravention of the policy of this Act, advertise, offer to sell, or sell at wholesale any merchandise at less than cost to the wholesaler as defined in this Act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred ($500.00) Dollars. Proof of any such advertising, offer to sell or sale by any retailer or wholesaler in contraven-

tion of the policy of this Act shall be *prima facie* evidence of a violation of this Act.

§ 5. In addition to the penalties provided in this Act, the Attorney General, or any Commonwealth or county attorney, or any person damaged, or who is threatened with loss or damage, by reason of a violation of this Act, shall have the right to apply for an injunction, and any court of competent jurisdiction shall have the power to restrain sales in violation of this Act.

§ 6. The provisions of this Act shall not apply to sales at retail or sales at wholesale made,

(a) in an isolated transaction and not in the usual course of business;

(b) where merchandise is sold in *bona fide* clearance sales, if advertised, marked and sold as such;

(c) where perishable merchandise must be promptly sold in order to forestall loss;

(d) of imperfect or damaged merchandise, or merchandise which is being discontinued, if advertised, marked and sold as such;

(e) of merchandise sold upon the complete final liquidation of any business;

(f) of merchandise sold for charitable purposes or to unemployment relief agencies;

(g) of merchandise sold on contract to departments of government and governmental institutions;

(h) in meeting the price of a competitor on merchandise which is the same as to comparable competitive factors, such as weight, quantity, quality, pack, brand or packaging:

(i) by any officer acting under the order or direction of any court.

§ 7. This Act shall be known and cited as the "Unfair Sales Act".

§ 8. If any section, sentence or clause of this Act shall

for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining parts hereof.

Mr. Brown moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Joe Robinson moved that said bill be laid on the table.

Said motion was agreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	H. Myer Garner	Lloyd MacDonald
Henry H. Allen	G. W. Garrett	Elmer McGlothen
C. W. Anderson, Jr.	Ferd A. Gnau	John Marshall
H. T. Baker	Ben Grogan	C. S. Matherly
B. F. Bedford	Jas. T. Hamilton	D. T. Matlack
Reuben J. Boling	C. L. Hammons	Duke Mayfield
Douglas Bolling	W. L. Hampton, Jr.	G. S. Milam
Ollie J. Bowen	Thomas W. Hines	John B. Mollett
Dr. R. A. Byers	Price Holbrook	Tyler Munford
Jas. C. Carter	Ira W. Hulette	Rodes K. Myers
V. O. Chandler	John M. Hunnicut	J. C. Nickell
Roscoe Claxon	J. H. Jones	Russell O'Neill
George S. Clay	O. C. Jones	J. C. Ramey
Sam Dever	R. T. Kirkman	Hobart Rayburn
Howard G. Early	J. F. Ladd	L. K. Rice
Garland Embry	Leslie Larrimore	Wade H. Riley
Walter R. Fannin	Robert E. Lee	Joe E. Robinson

John C. Robinson	Chester D. Silvers	J. J. Thomas
Carl Scheben	H. C. Steely	Henry Ward
Carl Schneider	Henry Stewart	W. G. Williams
Ray O. Shehan	Dr. H. S. Swope	
P. L. Sidebottom	W. R. Tapp	—64

Those who voted in the negative were—

Wallace Brown	Herbert Cook	A. W. Ross
Floyd Clark	W. F. McGary	S. J. Wagner
Roy Conway	A. W. Pfeiffer	Charles Wylie
		—9

And so said bill was tabled.

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 12. An Act to provide for the stabilization of the milk industry in the State of Kentucky; creating a State Milk Control Board, defining the powers and duties of said State Milk Control Board, and setting up a system of regulations under which the production and distribution of milk will be properly regulated in order that the consumer may be assured at all times of an adequate supply of clean, healthy milk.

With a Committee amendment thereto by way of Substitute therefor.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. *Purpose.* The purpose of this Act is to provide a uniform system for the production, sale and distribution of milk and dairy products. Experience has taught that it is necessary to regulate the production and distribution of milk and dairy products, in order that a fair price may be obtained by the producer.

§ 2. *Definitions.* Wherever used in this Act, the following terms shall be construed as set out.

(a) The term "person" means any person, firm, corporation or association.

(b) "Producer" shall mean any person (1) who produces milk in conformity with health regulations for fluid milk in any sales area and (2) who sells the milk so produced in said sales area.

(c) "Distributors" as used in this Act, shall mean any person, firm or corporation holding a distributor's permit from the local Health Board if such permit is required and who distributed dairy products at wholesale or retail (1) to hotels, restaurants, stores, or other establishments for consumption on the premises, (2) to stores or other establishments for resale or (3) to consumers.

(d) "Local Board" as used in this Act shall mean a Board regularly constituted as provided in this Act, and qualified to act.

(e) "Local District" as used in this Act shall mean any district composing not less than two (2) adjacent counties in the State of Kentucky and in at least one of which there is a first- or second-class city.

(f) "Milk and Dairy Products" as used in this Act shall mean all milk, cream, buttermilk, cotttage cheese, flavored milk, raw or pasteurized milk meeting the requirements of the State and Local Board of Health and sold by a milk distributor for human consumption as such.

(g) Sales of milk and dairy products in Interstate Commerce when made in good faith for shipment out of the State of Kentucky shall be excluded from the provisions of this Act.

(h) The term "State Milk Control Board" means the State Agency created by this law to be known as the State Milk Control Board.

§ 3. There is hereby created a State Milk Control

Board, which shall be under the direction and supervision of the Department of Business Regulations, to consist of five members to be appointed by the Governor, of which two shall represent producers, and shall be appointed from at least five nominees selected by cooperative milk associations doing business in Kentucky; and two shall represent distributors and be appointed from at lease five nominees selected by associations of distributors doing business in Kentucky at the time this Act takes effect, and one appointed from a list of three nominated by the Dean of the College of Agriculture, University of Kentucky, from the public at large and not a distributor or a producer. Each member of the State Milk Control Board shall serve until their successors are appointed. A vacancy in any membership of the State Milk Control Board shall be filled by appointment for the unexpired term by the Governor in the same manner as the last incumbent of the position was appointed. The Governor may remove any member for misfeasance, malfeasance or non-feasance in office. The members of the State Milk Control Board shall serve without compensation. The term of office of each member of the State Milk Control Board shall be four (4) years from the time of his appointment.

The State Milk Control Board shall function only in any local district in which a local Board has been duly constituted according to the provisions of this Act.

§ 4. Anything in the common or statute law of this State to the contrary notwithstanding, it shall be lawful: For any two or more distributors purchasing milk in the same market from producers to associate and to meet, confer and agree with one or more cooperative agricultural associations organized under the law of this state, or cooperative law of other states, or with any group of producers whether members of such association or not, selling in the same market upon prices to be paid by distributors to producers for milk; to recommend uniform classifications by which distributors

shall pay for milk according to the use and provide for the equalization of the price of such milk so that all producers shall receive the same price per one hundred pounds of milk sold of equal butterfat tests and basic rating.

§ 5. *Powers of the State Milk Control Board.* The State Milk Control Board shall have the following powers, to wit:

(a) To make a careful study of the conditions of the production, distribution and consumption of milk and dairy products.

(b) (1) To establish uniform prices and classifications by which distributors shall pay for milk according to the use and provide for the equalization of the price of such milk so that all producers shall receive the same price per one hundred pounds for milk sold of equal butterfat tests and basic rating.

(b) (2) In case the State Milk Control Board shall find either on complaint or its own motion that an emergency exists in the local sales area, then the State Milk Control Board may fix and determine for such local sales area a fair and equitable price, both wholesale and retail, at which dairy products shall be sold by one distributor to another or to the consuming public.

Manufactured products as ice cream, butter, condensed, hard cheese, powdered milk or buttermilk (not for fluid consumption), or milk or dairy products used in their manufacture shall not come under the price fixing power of the State Milk Control Board.

(b) (3) To recognize bases of producers who are members of cooperative marketing associations and to establish equitable bases for producers who are not members of cooperative marketing associations.

(b) (4) To provide a uniform check-off to be deducted from the amount owing by the distributors to the producers, but to be paid by the distributors from the sum owing to the

producers; such check-off shall be paid by the distributors to such cooperative marketing associations organized under the laws of the State of Kentucky and adjoining states, who apply therefor to the State Milk Control Board and the check-off received by the State Milk Control Board from non-members shall be expended by the State Milk Control Board either through its own Local Board or the agency of cooperative associations for the purpose of auditing, promotion, check testing, advertising and educational work, and for such other ways as may be helpful to the producers.

(b) (5) To require the distributors to furnish satisfactory evidence of their responsibility to pay for milk bought, or to give a bond guaranteeing the payment for such milk and to keep records of operations and to report same to the State Milk Control Board, which records shall be subject to audit by the State Milk Control Board or its agents.

The State Milk Control Board shall have the power to suspend the license of any distributor for non-compliance with subsection B of Section 5.

Before the State Milk Control Board may suspend the license of any distributor, it shal give to such distributor ten days' written notice, together with a written statement setting out the grounds for such suspension, and if the distributor does not answer such grounds in writing within ten days, the license shall be suspended by the State Milk Control Board, but if such answer be so filed with the State Milk Control Board, it shall hold a hearing on the grounds and answer, and make such ruling thereon as the facts justify; and any distributor whose license is suspended shall have the right to appeal to the Circuit Court of the County in which the Local Board is located, and the State Milk Control Board shall certify to such Court the entire record heard by it, providing the cost of making such record be paid by the appealing distributor. The Circuit Court shall decide the case upon the record submitted, providing that the findings of fact of the State Milk Control

Board shall have the same weight as the verdict of a well-instructed jury, and from the judgment of the Circuit Court either party may appeal to the Court of Appeals as in other cases.

A distributor whose license has been suspended may apply for restoration thereof, and it shall be the duty of the State Milk Control Board to grant or refuse such application as the facts may justify.

(b) (6) To adopt and enforce all rules, regulations or orders necessary to carry out the provisions of this Act, including rules and regulations governing the following:

(a) The establishment of reasonable trade practices affecting the classification of milk sold by producers.

(b) The establishment of reasonable trade practices between producers or distributors, or producers and distributors in any marketing area.

(c) The marketing of milk at wholesale or retail in any local district.

(d) Use of bases and schedules of prices to be paid producers of milk in each of the local districts.

(b) (7) To authorize the local Board to assist the State Milk Control Board in the performance of its duties under this Act.

§ 6. The local district shall embrace such counties or parts of counties as may be determined and certified by the State Milk Control Board upon recommendation of the Local Board to comprise such local district, but in no event shall it consist of less than two (2) counties. The sales area in any local district shall be such area as may be determined and certified by the State Milk Control Board.

§ 7. At any time after this Act becomes effective, the State Milk Control Board may set up for any local district as herein defined a Local Board, provided sixty-five (65) per cent of the producers in said district certify to the State Milk

Control Board their desire to have such Local Board constituted. Such Local Board shall consist of seven (7) members, three (3) of whom to be nominated by the producers, three (3) to be nominated by the local distributors' organization and one (1) appointed by the Dean of College of Agriculture, University of Kentucky, from the public at large and not a distributor or producer, who shall serve for two years, and all of whom shall reside in the local district. Cooperative Associations may represent and act for their members at any time sixty-five (65) per cent of the producers certify to the State Milk Control Board their desire to have the local Board dissolved, the local Board shall become ineffective at once. The appointive members of the Local Boards shall be nominated at a meeting called by the State Milk Control Board within thirty days after request is made, notice of which shall be sent to all producers as defined herein within the local district and to all distributors doing business within the sales area of said local district but each meeting shall be held separately, and twenty (20) days' notice of the time and place of holding said meeting shall be given in the notice. At such meeting a chairman and secretary shall be elected and the certification of the chairman and secretary of the names of those nominated to the Local Board shall be made to the State Milk Control Board.

The producer and distributor members of the first Local Board shall hold their offices for a term of one (1) year or until their successors are nominated and qualified, and each year thereafter the State Milk Control Board shall give the same notice of nomination of members of the Local Board as above provided. The nomination of members of the Local Board shall be held in the same month each year and as nearly as possible on the same day. Vacancies in the Local Board of producer members shall be filled by the State Board until the next annual nomination. Each local board shall make a careful study of the conditions, production, distribution and con-

sumption of milk and dairy products within its respective local district, and submit to the State Milk Control Board recommendations with respect to rules and regulations to be adopted by such State Board for the effectuation of the purposes of this Act in such local district.

§ 8. All distributors in the sales area shall procure and maintain a license from the State Milk Control Board and no distributor shall operate without such license, the cost of which shall be $1.00 (One Dollar).

§ 9. *Penalties.* Any person, firm or corporation violating the provisions of this Act or failing to conform to the regulations of the State Milk Control Board sahll be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Ten ($10.00) Dollars, and not more than One Hundred ($100.00) Dollars for each offense.

§ 10. *Separability.* If any part of this Act be held to violate any provision of the Constitution of the United States or the Constitution of the Commonwealth of Kentucky, then such part shall be eliminated therefrom and the remainder of this Act shall be in force, it being declared to be the legislative intention to enact a comprehensive Act without the inclusion of such part as may be declared unconstitutional.

§ 11. Nothing in this Act is intended or shall be construed to limit any of the rights, powers or privileges granted to Cooperative Marketing Associations by Section 883f-1 to Section 883f-41 inclusive of the Kentucky Statutes or to repeal any portion of said section.

§ 12. In order to secure a uniform system of milk control, the State Milk Control Board is hereby vested with power and it shall be its duty to confer and cooperate with the legally constituted authorities of other states and of the United States, including the Secretary of Agriculture of the United States, and for the foregoing purposes the State Milk Control Board shall have power to conduct joint hearings,

issue joint or concurrent orders and exercise all its powers under this Act.

Mr. Gnau moved that said bill be laid on the table.

Said motion was agreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Ben Grogan	A. W. Pfeiffer
Henry H. Allen	Jas. T. Hamilton	J. C. Ramey
C. W. Anderson, Jr.	C. L. Hammons	Hobart Rayburn
H. T. Baker	Price Holbrook	Harry C. Records
B. F. Bedford	Ira W. Hulette	L. K. Rice
Reuben J. Boling	John M. Hunnicut	Wade H. Riley
Dr. R. A. Byers	J. H. Jones	Carl Schneider
V. O. Chandler	O. C. Jones	Ray O. Shehan
Harry Davis	R. T. Kirkman	Chester D. Silvers
Sam Dever	J. F. Ladd	H. C. Steely
Howard G. Early	Leslie Larrimore	Henry Stewart
Garland Embry	Robert E. Lee	Dr. H. S. Swope
Walter R. Fannin	Elmer McGlothen	J. J. Thomas
G. W. Garrett	John B. Mollett	S. J. Wagner
Ferd A. Gnau	Tyler Munford	Charles Wylie

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Those who voted in the negative were—

W. T. Baker	Eugene Gough	Mel Petry
Ollie J. Bowen	W. L. Hampton, Jr.	A. W. Ross
Wallace Brown	Clyde S. Howard	Carl Scheben
Jas. C. Carter	T. B. McConnell	Dr. B. F. Shields
Roscoe Claxon	Lloyd MacDonald	P. L. Sidebottom
George S. Clay	John Marshall	Joseph L. Wall
Roy Conway	D. T. Matlack	Henry Ward
Herbert Cook	Rodes K. Myers	L. R. Wells
T. P. Fitzpatrick	J. C. Nickell	W. G. Williams
H. Myer Garner	Russell O'Neill	

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And so said bill was tabled.

Mr. Gnau moved that further consideration of said bill be postponed indefinitely.

Said motion was agreed to.

Mr. Schneider moved that the House do now adjourn.

Said motion was disagreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 5. An Act relating to non-profit cooperative corporations and providing, but not by way of limitation, for the formation, operation, consolidation, and dissolution of non-profit cooperative corporations to be known as "Rural Electric Cooperative Corporations" for the purpose of manufacturing, purchasing, selling, distributing, and encouraging the fullest use of electric energy in the Commonwealth of Kentucky and for the purpose of making electric energy, services, and appliances and property operated by electricity available to the inhabitants of rural areas in the Commonwealth of Kentucky at the lowest cost consistent with sound business methods and prudent management; and providing for the rights, powers and duties of such corporations, and providing for the government of such corporations; and providing for the issuance of stock and membership in and by such corporations; and providing for the issuance of obligations by such corporations; and providing for the number of persons that may organize such corporations and the form of the articles of incorporation and the corporate charter and the respective fees therefor; and providing that said corporations may use a corporate seal, sue and be sued, contract and be contracted with and purchase and hold property, real and

personal, as may be proper and necessary for carrying on its legitimate business, and mortgage, sell or lease same; and providing that said corporations may receive property; including cash, and may charge fees, rates, tolls, or rentals for energy, services or appliances and property; and providing for the issuance of stocks or bonds or memberships and the purchase of corporate stock by said corporations; and providing for the transfer of stock and the payment of patronage dividends; and providing that stockholders or members shall not be liable for the debts of the corporations; and providing for penalties for refusal to supply electric energy to said corporations; and exempting said corporations from all state, county, municipal or local taxation other than an annual tax of $10.00 on each corporation formed hereunder; and providing that such corporations shall be subject to the general jurisdiction of the Public Service Commission of Kentucky; and exempting said corporations and the securities issued by them from the act of March 23, 1926, known as the "Blue Sky Law," together with all amendments thereto; and conferring upon said corporations the power of eminent domain; and providing that if any provision of this act is held invalid, it shall not affect the other provisions hereof; and repealing any and all acts or parts of acts and any and all laws or parts of laws in conflict herewith.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. This act may be known, cited and referred to as the "Rural Electric Cooperative Corporation Act."

§ 2. The following terms whenever used or referred to in this act shall have the following meanings, unless a different meaning clearly appears from the context:

(a) "Municipality" shall mean any county, city, town or village or municipal corporation of any and every class in

the Commonwealth of Kentucky, including any political subdivision of the Commonwealth of Kentucky.

(b) "Person" or "inhabitant" shall mean and include natural persons, firms, associations, corporations, business trusts, partnerships and bodies politic and corporate.

(c) "Energy" shall mean and include any and all electric energy no matter where or how generated, produced, transmitted or conveyed.

(d) "System" shall mean and include any plant, works, systems, facilities and properties (including poles, wires, stations, transformers, and any and all equipment and machinery), together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission or distribution of energy.

(e) "Obligations" shall mean and include negotiable bonds, notes, debentures, interim certificates or receipts and all other evidences of indebtedness either issued or the payment thereof assumed by a corporation organized under this act.

(f) "Federal Agency" shall mean and include, but not by way of limitation, the United States of America, the President of the United States of America, the Federal Emergency Administrator of Public Works, the Rural Electrification Administration, The Tennessee Valley Authority, the Farm Credit Administration, the Central Bank for Cooperatives, any district bank for cooperatives formed under that Act of Congress known as the Farm Credit Act of 1933 (and any amendment thereto) including any successor to any existing bank for cooperatives, and any and all other authorities, agencies and instrumentalities of the United States of America, heretofore or hereafter created, by whatsoever title designated.

(g) "Acquire" shall mean and include construct, acquire by purchase, by lease, devise, gift or the exercise of the right of eminent domain in the manner now or hereafter provided

by law for the exercise thereof and acquisition by any other mode.

(h) "Improve" shall mean and include construct, reconstruct, improve, extend, enlarge, alter, better and repair.

(i) "Board" shall mean the board of directors of a corporation formed under this act.

(j) "Member" shall mean and include each person signing the articles of incorporation of a corporation formed under this act and each person admitted to membership therein pursuant to law or its articles of incorporation or by-laws. "Member" shall also mean and include a common stockholder in a corporation formed and organized hereunder having capital stock.

§ 3. Any number of natural persons, not less than five, a majority of whom are citizens of the Commonwealth of Kentucky, may, by executing, filing and recording articles of incorporation as hereinafter provided, form and become a cooperative corporation not organized for pecuniary profit for the purpose of

(a) Promoting and encouraging the fullest possible use of electric energy in the Commonwealth of Kentucky by

(i) Making electric energy available by production, transmission or distribution, or both, to or by otherwise securing the same for the inhabitants of and persons in rural areas of the Commonwealth of Kentucky at the lowest cost consistent with sound business methods and prudent management of the business of such corporations, and

(ii) By making available electrical devices, equipment, wiring, appliances, fixtures and supplies and all kinds of tools, equipment and machinery (including any fixtures or property or both which may by its use be conducive to a more complete use of electricity or electric energy) operated by electricity or electric energy to the inhabitants of and persons in rural areas of the Commonwealth of Kentucky at the low-

est cost consistent with sound business methods and prudent management of the business of such corporations, or

(b) Promoting and encouraging the fullest possible use of electric energy in the Commonwealth of Kentucky by

(i) Making electric energy available to the inhabitants of and persons in rural areas of the Commonwealth of Kentucky at the lowest cost consistent with sound business methods and prudent management by producing, transmitting distributing or furnishing, or both, electric energy to any corporation formed under and for the purposes provided by subsection (a) of Section 3 of this act and only to such corporations, and

(ii) By making available to any corporation formed under and for the purposes provided by subsection (a) of Section 3 of this act and only to such corporations, all kinds of electrical devices, equipment, wiring, appliances, fixtures and supplies and all kinds of tools, equipment and machinery (including any fixtures or property or both which may by its use be conducive to a more complete use of electricity or electric energy) operated by electricity or electric energy, any accounting services, forms and supplies, bargaining services, business counsel and advice, engineering services, supervisory services, investment counsel, general purchasing services of all kinds, and any other service or services which may be requested, deemed advisable or desirable in the conduct of its business by any corporation formed under and for the purposes provided by subsection (a) of Section 3 of this act, provided that any corporation organized under this act may be organized to do either, any or all of the acts set forth in subsection (b) of this section.

§ 4. The articles of incorporation shall be entitled and endorsed "Articles of Incorporation of .....Rural Electric Cooperative Corporation" (blank space being filled in with the distinguishing part of the name of the corporation) and shall state and set forth:

a. The name of the corporation, which name shall be such as to distinguish it from any other corporation.

b. The purpose or purposes for which it is formed.

c. The place, including the county, where its principal office will be located.

d. A reasonable description of the territory in which its operations are to be conducted.

e. The number of directors which shall be not less than five.

f. The names and postoffice addresses of the directors, not less than five, who are to manage the affairs of the corporation for the first year of its existence, or until the first annual meeting or other meeting called to elect directors and/or until their successors are elected and qualified.

g. The period, if any, limited for the duration of the corporation. If the duration of the corporation is to be perpetual, this fact shall be stated.

h. (i) If organized without capital stock, the terms and conditions upon which members may be admitted to membership and the terms and conditions upon which such membership shall cease and terminate. The property rights and interests of each member in a corporation formed under this act without capital stock shall be equal.

(ii) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof.

The capital stock may be divided into proferred and common stock. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and definite extent of the preference and privileges granted to each.

i. The articles of incorporation of a corporation formed

under this act may also contain any lawful provision which the incorporators may choose to insert for the purpose of the regulation of the business of such corporation and for the conduct of the affairs of such corporation and/or for the purpose of defining, limiting, and/or regulating the exercise of the powers of the corporation, of the board of directors of the corporation and of the members of the corporation. The articles of incorporation may also contain any provisions, not inconsistent herewith, creating, defining, limiting, regulating the rights and powers, and likewise the duties of the corporation, its directors and members. The articles of incorporation may also contain any provision, not inconsistent with the provisions hereof, for the purpose of creating or defining the rights and privileges of the members of such corporation among themselves.

j. Neither the incorporators nor any member of any corporation formed under this act shall be personally responsible for any debt, obligation or liability of such corporation, except for promissory notes given for the purchase of common stock in the corporation.

§ 5. The articles of incorporation shall be executed in quadruplicate by the incorporators and each copy shall be acknowledged by each of the incorporators before a notary public or any officer authorized by the laws of the Commonwealth of Kentucky to take acknowledgments of deeds. When so acknowledged, the four copies of the articles of incorporation, together with the certificate of acknowledgment, shall be filed in the office of the Secretary of State, who, if he shall find the same legal and valid, shall forthwith indorse his approval on each of the said four copies, retain, record and file one of said copies in his office, delivering the other three copies thereof with his approval indorsed thereon to the incorporators. The incorporators upon the receipt of said approved copies, shall thereupon file one of the said approved copies of said articles of incorporation in the office of the

county court clerk in the county wherein is to be located the principal office of said corporation and one of the said approved copies of said articles of incorporation with the Dean of the College of Agriculture of the University of Kentucky. As soon as the Secretary of State shall have approved the articles of incorporation and indorsed his approval thereon, the proposed corporation described in the articles of incorporation so filed, shall, under its designated name, be and constitute a body politic and corporate and shall thereupon be fully authorized to transact business in its corporate name.

§ 5-A. Reorganization of Other Similar Corporations. All companies or associations heretofore organized or doing business under prior statutes, or which have attempted to so organize and do business, the intents and purposes of which shall be rural electrification, and which are not organized for pecuniary profit, and in which as many as seventy-five per cent of the stockholders are farmers, shall have the benefit of all the provisions of this act and be bound thereby on paying the fees provided for in this act and filing with the Secretary of State a written declaration signed and sworn to by the president and secretary, to the effect that said company or association has, by a majority of its stockholders, decided to accept the benefits of and be bound by the provisions of this act. Four copies of said declaration, together with the certificate of acknowledgment, shall be filed in the office of the Secretary of State and approved by him, one copy of which shall remain in his office, one copy of which shall be filed in the office of the County Clerk of the county wherein is located the principal office of said corporation, and one of said approved copies shall be filed with the Dean of the College of Agriculture of the University of Kentucky. As soon as the Secretary of State shall have approved said declaration and endorsed his approval thereon, the proposed corporation described therein shall under its designated name be and constitute a body politic and corporate, may adopt the name,

"Rural Electric Cooperative Corporation" or "Association" and shall thereupon be fully authorized to transact business in its corporate name and shall thereupon inure to all the rights, powers, privileges and benefits of this act.

§ 6. Any corporation created under the provisions of this act shall have the legal power and capacity to perform any act not repugnant to law and shall have the express power and capacity to do any and all acts or things necessary or convenient for the carrying out of the purposes for which it is formed, including, but not by way of limitation, the following powers:

1. To sue and be sued, and to contract and be contracted with.

2. To adopt, use and at will alter a common seal, but failure to affix a seal shall not affect the validity of any instrument.

3. To acquire, hold and dispose of property, real and personal, tangible and intangible necessary or incident to the proper conduct of its business, including preferred or common stock or both of other corporations whether formed under this act or not, or interests therein and to pay therefor in cash, property or on credit, or both, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as its board of directors may determine.

4. To construct, acquire, own, lease, operate, maintain and improve a system or systems as defined in Section 2 of this act.

5. To pledge all or any part of its revenue or mortgage or otherwise encumber all or any part of its property and assets, real or personal, tangible or intangible, for the purpose of securing the payment of principal of and interest on any of its obligations.

6. In its corporate name, to have and exercise the right

of eminent domain in the manner provided by the condemnation laws for acquiring private property for public use.

7. To construct, own, lease, operate and control any and all works, lines, buildings and other facilities across, along or under any street or public highway, and over any lands which are now or may be the property of this Commonwealth or of any municipality in this Commonwealth. The corporation shall, however, restore any such street or highway to its former condition and state as nearly as may be possible and shall not use the same in a manner to impair unnecessarily its usefulness.

8. To accept gifts and/or grants of property, real or personal, including money, from any person, municipality or federal agency, or both, and the Commonwealth of Kentucky and to accept voluntary and uncompensated services.

9. To make any and all contracts necessary or convenient for the full exercise of the powers in this act granted, including, without limiting the generality of the foregoing, contracts with any person, including, but not by way of limitation, any federal agency or instrumentality, The Tennessee Valley Authority, any corporation formed under this act, any cooperative association as defined in the Farm Credit Act of 1935, any municipality and/or the Commonwealth of Kentucky, including, but not by way of limitation, contracts for the purchase and sale of property of all kinds and character whatsoever, for the purchase and sale of energy and/or for the purchase and/or use of electrical devices, equipment, appliances, fixtures and supplies of all kinds and/or all kinds of tools, equipment and machinery operated by electricity or electric energy and deemed desirable by the corporation for its use or the use of its members; any accounting services, forms and supplies, bargaining services, business counsel and advice, engineering services, supervisory services, investment counsel, general purchasing services of all kinds, and any other service or services which may be requested,

deemed advisable or desirable in the conduct of its business by any corporation formed under and for the purposes provided by subsection (a) of Section 3 of this act, for the management and conducting of the business of the corporation; for the fixing of rates, fees, or charges for service rendered or to be rendered by the corporation, subject, however, to the limitations provided in this act as to the fixing of rates; for any other corporate purpose.

10. To sell, lease, mortgage and/or otherwise encumber or dispose of all or any part of its property, as hereinafter provided.

11. To contract debts, borrow money without limitation as to the amount of corporate indebtedness or liability and to issue or assume the payment of obligations, and to secure the same by mortgage, pledge or otherwise of its property and assets.

12. To fix and collect reasonable fees, rents, tolls and other charges for services rendered subject to the limitations as to the reasonableness thereof as hereinbefore provided.

13. To assist its members in wiring their premises for the use of electric energy and in purchasing electrical equipment, appliances and supplies and in the financing of such activities.

14. To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents and employees, or by contracts with any person, federal agency, corporation formed under this act, cooperative association or municipality.

15. To do any and all things not herein specifically set forth which are or may reasonably be deemed necessary and proper for the accomplishment of the purposes of the corporation and which are not prohibited by law.

§ 7. No person, other than a corporation formed hereunder, shall at any one time own more than five per cent (5%)

of the outstanding common stock of a corporation formed under this Act with capital stock.

No common stockholder in any corporation formed under this Act, shall have more than one vote on any matter or subject regardless of the number of shares of stock owned or held by him. Preferred stockholders shall have no right to vote.

No corporation formed under this Act with capital stock, shall pay dividends on either its common stock or its preferred stock in an amount greater than four (4) per centum per annum on each class of stock.

A corporation formed under this Act may own stock in any corporation formed under this Act and in any federal agency.

Only farmers or persons engaged in the production of any agricultural products, including livestock, corporations formed under this Act, and "cooperative associations" as defined in Section 12 of that Act of Congress known and cited as the "Farm Credit Act of 1935," or any amendments thereto, can own common stock in any scorporation formed under this Act with capital stock.

Neither the common stock in any corporation formed under this Act nor any interest therein, shall be transferable or assignable, either by act of the parties or by operation of the law, to any person who is not eligible as herein provided to own said stock.

Anything herein to the contrary notwithstanding, any corporation formed under this Act may transact business with, furnish services, supply energy and sell property to the United States of America of any agency or instrumentality thereof, the Commonwealth of Kentucky or any municipality thereof, or any charitable, religious or eleemosynary institution although the same may not be a member of such corporation, and with and to other non-members provided, how-

ever, that at least seventy-five per cent (75%) of the business done shall be done by the corporation with its members.

No corporation formed under this Act shall issue common stock to a member until it has been fully paid for, but the promissory notes of a member may be accepted by the corporation as full or partial payment. The corporation shall hold the stock as security for the payment of the note; but such retention as security shall not affect the member's right to vote.

The corporation may, at any time, as specified in the by-laws, except when the debts of the corporation exceed fifty per cent (50%) of the assets thereof, buy in or purchase its common stock at the book value thereof, as conclusively determined by the board of directors, and pay for it in cash within one (1) year thereafter.

Preferred stock may be owned by and transferred to any person. Such stock may be redeemable and retirable by the corporation on such terms and conditions as may be provided for in the articles of incorporation and printed on the face of the certificate.

§ 8. The words "Rural Electric Cooperative" shall not be used in the corporate name of corporations other than those formed pursuant to the provisions of this Act.

§ 9. The articles of incorporation may be altered or amended at any regular meeting of the members of the corporation or at any special meeting called for that purpose. An amendment much first be approved by two-thirds of the directors and then adopted by a vote representing the majority of all the members of the corporation. Amendments to the articles of incorporation when so adopted, shall be executed in quadruplicate by the president and attested by the secretary of the corporation and each copy shall be acknowledged by the president and the secretary before a notary public or any officer authorized by the laws of the Commonwealth of Kentucky to take acknowledgments of deeds. When so acknowl-

edged, the four copies of the articles of incorporation, together with a certificate of acknowledgment shall be filed in the office of the Secretary of State, who, if he shall find the same legal and valid, shall forthwith indorse his approval on each of the said four copies, retain, record and file one of the said copies in his office, delivering the other three copies thereof with his approval indorsed thereon, to the president of the corporation, who shall thereupon file one of the said approved copies of said amendment or amendments in the office of the county court clerk in the county wherein is located the principal office of the corporation, and who shall file one of the said approved copies of said amendment or amendments with the Dean of the College of Agriculture of the University of Kentucky. Any amendment to the articles of incorporation shall be and become effective upon the indorsement thereon by the Secretary of State of his approval thereof.

§ 10. The incorporators or incorporating members of each corporation organized under this Act shall adopt for its government and management by-laws not inconsistent with the powers granted by this Act. The written consent of a majority of the incorporators or incorporating members shall be necessary to the adoption of such by-laws, such consent to be evidenced by their affixing their respective signatures to the by-laws adopted. The by-laws may be amended by a majority vote of the board of directors. The by-laws may provide for any or all of the following matters:

(a) The time, place and manner of calling and conducting its meetings.

(b) The number of members constituting a quorum.

(c) The right of members to vote by proxy or by mail, or both; and the conditions, manner, form and effect of such votes.

(d) The number of directors constituting a quorum.

(e) The qualifications, compensations, authority, power,

duties and term of office of directors and officers; the time of their election and the mode and manner of giving notice thereof.

(f) An executive committee and the allotment to such committee of any or all of the functions and powers of the board of directors, subject to the general direction and control of said board of directors.

(g) Penalties for violation of the by-laws.

(h) The amount of entrance, organization and membership fees, if any; the manner and method of collecting the same; and the purpose or purposes for which they may be used.

(i) The qualifications of members of the coproration and the conditions precedent to membership; the methods, time and manner of permitting members to withdraw; the manner of assignment or transfer of the interest of a member; the conditions upon which and the time when membership of any member shall cease; the suspension of the rights of a member when he ceases to be eligible to membership in the corporation; the mode, manner and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the corporation upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his membership or, at the option of the corporation, the purchase at a price fixed by appraisal by the board of directors. The by-laws may provide that in case of forced withdrawal or expulsion of a member, the board of directors shall equitably appraise his property interest in the corporation and shall at its option fix the amount thereof in money or other property, which shall be paid to him in such cash or other property within one year after such expulsion or withdrawal.

(j) Any other matter or thing relative to the control, regulation, operation, management or government of the corpo-

ration not inconsistent with law or with the articles of incorporation.

§ 11. (a) Each corporation formed hereunder shall have a board of directors of not less than five members which board shall constitute the governing body of the corporation. Unless otherwise provided in the articles of incorporation, or an amendment thereof, it shall not be necessary for directors to be members. Subject to the provisions of the articles of incorporation and the by-laws, the board of directors shall have power to manage and conduct the business and affairs of the corporation. The directors of the corporation, other than those named in its articles of incorporation, shall be elected annually or as provided for in the by-laws, provided, however, that no director shall be elected for a longer term than three years, by the members entitled to vote therefor. The directors shall be entitled to such compensation and reimbursement of expenses incurred by them as may be provided in the by-laws.

(b) When a vacancy on the board of directors occurs other than by expiration of the term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the by-laws otherwise provide.

(c) The board of directors may adopt rules and regulations governing the procedure of the board and of the operations of the corporation formed hereunder which shall not be inconsistent with the articles of incorporation or the by-laws.

§ 12. The directors shall elect from their number a president and one or more vice presidents. The board of directors shall also elect a secretary and a treasurer, who need not be either directors or members. The powers and duties of the foregoing officers as well as their term of office, shall be as defined in the by-laws. The board of directors may combine the offices of secretary and treasurer and designate the combined office as secretary-treasurer. The board may elect such assistant secretaries and assistant treasurers, who need not be

directors or members of the corporation, as in their judgment may be necessary.

§ 13. Every officer, employee and agent handling funds, cash, securities or negotiable instruments of or for any corporation created hereunder shall be required to execute and deliver such an adequate bond for the faithful performance of his duties as shall be approved by the board of directors.

§ 14. When a member of a corporation formed hereunder without capital stock has paid his membership fee in full he shall receive a certificate of membership which shall set forth the nature and extent of the member's interest in the corporation. Each member shall be entitled to one and only one vote at the meetings of the corporation.

§ 15. (a) The corporate purpose of each corporation formed hereunder shall be as provided in Section 3 hereof. Corporations formed hereunder shall furnish services and supply energy and shall sell personal property (except that transferred in part payment for other personal property) to their members only, except as otherwise in this act provided, permitted or allowed. No person other than the original incorporators shall be, become or remain a member of any corporation formed under this act without capital stock, unless such person shall use energy supplied by such corporation or energy supplied by a corporation which is a member of the corporation in question or is a corporation formed under this act, or is a corporation furnishing energy or is a "cooperative association" as defined in Section 12 of that Act of Congress known and cited as the "Farm Credit Act of 1935", or any amendments thereto, and shall have complied with the terms and conditions in respect to membership contained in the articles of incorporation and in the by-laws of the corporation.

(b) It shall be lawful for any corporation formed under this act to provide in its articles of incorporation that in addition to the requirements for membership herein set forth that

no person other than the original incorporators shall be, become or remain a member of any corporation formed under this act, unless such person is a farmer or a "cooperative association" within the meaning of Section 12 of the Farm Credit Act of 1935, and any amendments thereof, amending subsection (a) of Section 15 of the Agricultural Marketing Act, as amended.

(c) It shall be lawful for any corporation formed under this act to provide in its articles of incorporation that in addition to the requirements for membership herein set forth in subsection (a) of this section that a stated percentage of its members must be and remain farmers and/or "cooperative associations" within the meaning of Section 12 of the Farm Credit Act of 1935, and any amendment thereof, amending subsection (a) of Section 15 of the Agricultural Marketing Act, as amended.

(d) Subject to the provisions of this section, any corporation formed under and for the purposes provided in subsection (a) of Section 3 of this act may be, become and remain a member of any corporation formed under and for the purposes provided by subsection (b) of Section 3 of this act and may fully avail itself of the facilities and services of such corporation.

§ 16. A corporation formed hereunder shall have power and is hereby authorized, from time to time, to issue its obligations and may pledge its future revenues for the payment thereof. Such obligations may be in form of bonds, notes, debentures, interim certificates or other evidences of indebtedness. Said obligations shall be authorized by resolution or resolutions of the board of directors, provided a resolution is first passed by a majority of the common stock holders giving them such power, and shall bear such date or dates, mature at such time or times, not exceeding twenty years from their respective dates, bear interest payable at such periods and at such rate or rates not exceeding six per centum (6%) per an-

num, payable semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, not exceeding par and accrued interest, as such resolution or resolutions may provide. Such obligations may be issued for money or property, at public or private sale, for such price or prices as the board shall determine, provided that the interest cost to maturity of the property (at its value as determined by such board, the determination of which shall be conclusive), or money received for any issue of said resolutions, shall not exceed six per centum (6%) per annum, payable semi-annually. Pending the preparation or execution of definite obligations, interim receipts or certificates or temporary obligations may be delivered to the purchaser of said obligations. Any provision of law to the contrary notwithstanding, any obligations and the interest coupons appertaining thereto, if any, issued pursuant to this act shall possess all of the qualities of negotiable instruments.

§ 17. In connection with the issuance of any obligation or obligations, a corporation formed under this act may make such covenants or agreements and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its obligations, including the pledge or mortgage of all or any part of its assets, real or personal, tangible or intangible, or which, in the absolute discretion of the board of directors tend to make the obligations more marketable, notwithstanding that such covenants, agreements, acts and things may constitute a limitation on the exercise of the powers herein granted.

§ 18. Any corporation organized under this act shall have the power out of any funds available therefor to purchase and/or redeem any obligation issued by it at a price not exceeding the principal amount thereof and accrued interest

thereon. All obligations so purchased shall be canceled and retired.

§ 19. (a) Each corporation formed hereunder shall have power to charge reasonable fees, rates, rents, tolls, prices, and other charges for any service rendered or to be rendered, either direct or in connection therewith, and for services or personal property or both, rendered or sold, including that rented or bailed, to its members, or others as in this act provided.

(b) Such fees, rents, tolls, prices and charges shall be such as will produce sufficient revenue.

(i) To pay all legal and other necessary expenses and charges incident to the operation of its system and business, including maintenance cost, operating charges, up-keep, repairs and taxes, if any.

(ii) To provide a sinking fund for the liquidation of obligations, principal and interest and to provide a reasonable surplus in the discretion of the board of directors.

(iii) To provide adequate funds to be used as working capital and to acquire property necessary or incidental to the proper conduct of the business of the corporation, as well as funds for making improvements, extensions and replacements, including the replacement of merchandise and personal property sold in the usual course of business and to provide for depreciation and contingencies.

(iv) To provide such funds as may be needed for the proper conduct of the business.

It is the intent and purpose hereof that such charges shall produce an income sufficient to maintain such corporation property in a sound physical and financial condition to render adequate and efficient service.

(c) Revenues and receipts not needed for the above and foregoing purposes shall be returned to the members as a patronage dividend or refund on a *pro rata* basis according to

the amount of energy consumed or supplies, services or personal property received, rented and/or purchased, said patronage dividend or refund to be payable either in cash, common stock or certificates of indebtedness, other property or in abatement of current charges for energy, supplies, services or personal property, or both, as the board of directors of such corporation may determine or in the discretion of the board of directors by general rate reductions.

§ 20. Any two or more corporations created under the provisions of this act and operating in contiguous territory may enter into an agreement for the consolidation of such corporations. Such agreement shall set forth the terms and conditions of the consolidation, the name of the proposed consolidated corporation, the number of its directors, not less than five, the time of the annual meeting of such consolidated corporation and the names of the persons, not less than five, to be directors until the first annual meeting. If such agreement is approved by a majority vote of the members of each corporation, present and voting at the meeting at which the proposed consolidation is voted upon, the directors named in the agreement shall subscribe and acknowledge articles in quadruplicate conforming substantially to the original articles of incorporation except that it shall be entitled and endorsed "Articles of Consolidation of ....." (blank space being filled in with the names of the corporations being consolidated). The articles of consolidation shall state:

1. The names of the corporations being consolidated.
2. The name of the consolidated corporation.
3. Such other items as are required or permitted to be set forth in the original articles of incorporation.

Such articles of consolidation shall be filed and recorded substantially as provided in Section 5 of this act.

Such articles of consolidation may be altered or amended at any regular meeting of the members of the corporation or

at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing the majority of all the members of the corporation present at such meeting. Amendments to the articles of consolidation when so adopted, shall be executed in quadruplicate by the president and attested by the secretary of the corporation and each copy shall be acknowledged by the president and the secretary before a notary public or any officer authorized by the laws of the Commonwealth of Kentucky to take acknowledgments of deeds. When so acknowledged, the four copies of the articles of consolidation, together with a certificate of acknowledgment, shall be filed in the office of the Secretary of State, who, if he shall find the same legal and valid, shall forthwith indorse his approval on each of the said four copies, retain, record and file one of the said copies in his office, delivering the other three copies thereof with his approval indorsed thereon, to the president of the corporation, who shall thereupon file one of the said approved copies of said amendment or amendments in the office of the county court clerk in the county wherein is located the principal office of the corporation, and who shall file one of the said approved copies of said amendment or amendments with the Dean of the College of Agriculture of the University of Kentucky. Any amendment to the articles of consolidation shall be and become effective upon the indorsement thereon by the Secretary of State of his approval thereof. As soon as the Secretary of State shall have approved the articles of consolidation and indorsed his approval thereon, the proposed consolidated corporation shall thereupon constitute a body corporate with all of the powers of a corporation as originally formed hereunder.

§ 21. Any corporation created hereunder may be dissolved by filing, as hereinafter provided, articles which shall be entitled and indorsed "Articles of Dissolution of....."

(blank space being filled in with the name of the corporation) and shall state:

1. Name of the corporation and, if such corporation is a corporation resulting from a consolidation as herein provided, the names of the original corporations.

2. The date of filing of the articles of incorporation and, if such corporation is a corporation resulting from a consolidation as herein provided, the dates on which the articles of incorporation of the original corporation were filed.

3. That the corporation elects to dissolve.

4. The name and post-office address of each of its directors, and the name, title and post-office address of each of its officers.

Such articles shall be subscribed and acknowledged in the same manner as an original articles of incorporation by the president or a vice-president and the secretary or an assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a majority vote, in person or by proxy, of the members of the corporation entitled to vote, present and voting at the meeting at which the proposed dissolution is voted upon.

Articles of dissolution shall be filed and recorded substantially as provided in Section 5 of this Act. As soon as the Secretary of State shall have approved the articles of dissolution and indorsed his approval thereon, the corporation shall be deemed to be dissolved.

Such corporation shall continue for the purpose of paying, satisfying and discharging any existing liabilities or oblications and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued, contract and be contracted with in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied

or discharged shall be ratably distributed to the members thereof.

§ 22. Except as provided in Sections 15, 16, and 17 of this Act, no corporation may sell, mortgage, lease or otherwise dispose of any of its property other than

(a) Property which, in the judgment of the board of directors is neither necessary nor useful in operating and maintaining the corporations system, provided, however, that sales of such property shall not in any one year exceed ten per centum (10%) in value of the value of all of the property of the corporation other than personal property acquired for resale and merchandise,

(b) Services of all kinds, electricity and energy,

(c) Personal property acquired for resale, and

(d) Merchandise,

unless the board of directors is authorized so to do by a majority vote of the members of the corporation entitled to vote present and voting at the meeting at which the proposed sale, mortgage, lease or other disposal is voted upon.

§ 23. It shall be unlawful for any person, firm or corporation engaged in the business of producing, including generating, manufacturing, selling or distributing electric energy, or any thereof, for public use, in the Commonwealth of Kentucky to refuse to furnish electric energy to any corporation organized under the provisions of this Act, provided that such corporation is able and willing to pay the same rates for such energy as are paid by other consumers in the same territory using a comparable amount of energy. This shall not, however, present a discrimination being made which is based upon the load factor or diversity factor. Whoever being such person, firm or corporation referred to in this section or whoever being an officer, agent or employee in an official capacity, of a public utility corporation, knowingly violates the provisions of this section or willfully fails, omits, or neglects to

observe or comply with the provisions hereof shall be fined not less than $100 nor more than $1,000, or imprisoned not more than two years, or both, and each day's continuance of such failure, omission, or neglect shall constitute a separate offense.

§ 24. The provisions of the General Corporation laws of this State and all powers and rights thereunder, shall apply to corporations organized hereunder, except where such provisions are in conflict with or inconsistent with the express provisions of this act.

§ 25. This Act is to be liberally construed and the enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

§ 26. Every corporation formed under the provisions of this act shall be subject to all the provisions of Chapter 145 of the Acts of the General Assembly of Kentucky of 1934 except as hereinafter in this section provided, viz.:

(a) No corporation formed under the provisions of this act shall be liable to the payment of any assessment or any fees under Section 8 of Chapter 145 of the Acts of the General Assembly of Kentucky of 1934.

(b) No corporation formed under this act shall be required to furnish any service or property or supply energy as a utility company except as otherwise in accordance with and as limited by the provisions of this act.

(c) Corporations formed hereunder shall be subject to the general supervision of the Public Service Commission of Kentucky.

§ 27. Corporations formed hereunder shall be exempt from all franchise taxes, profit taxes, gross and net taxes, sales taxes, occupation taxes, privilege taxes, income taxes, any and all taxes on electric current consumed and from all excise taxes whatsoever, any statute or statutes now existing

or hereafter passed to the contrary notwithstanding. In lieu of any and all other taxes, state, county, municipal and/or local corporations formed under this act being non-profit co-operative organizations shall pay annually to the treasurer of the Commonwealth of Kentucky an annual tax of ten dollars.

§ 28. Corporations formed hereunder, and securities and obligations issued hereunder, shall be exempt from all of the provisions of that act known and referred to as the Kentucky "Blue Sky Law" of March, 1926, together with all amendments now in force or subsequently enacted.

§ 29. For acting upon, filing and recording articles of incorporation, amendments to articles of incorporation, articles of consolidation, amendments to articles of consolidation and articles of dissolution regarding any corporation formed hereunder, the corporation shall pay and the Secretary of State shall be entitled to receive and receipt therefor, a sum not to exceed $2.00. (No fee shall be paid or received for the affixing of the great seal of the Commonwealth of Kentucky to any of the aforesaid documents or any copy thereof.)

For filing and recording articles of incorporation, amendments to articles of incorporation, articles of consolidation, amendments to articles of consolidation and articles of dissolution, regarding any corporation formed hereunder, the corporation shall pay and the county court clerk shall be entitled to receive and receipt therefor, a sum not to exceed $3.00. The recordation of the above mentioned instruments shall be exempt from all recording taxes.

§ 30. If any provision of this act, or the application of such provision to any person, body, or circumstance, shall be held invalid, the remainder of this act, or the application of such provisions to persons, bodies or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

§ 31. All acts and parts of acts and all statutory provisions and all laws and parts of laws in conflict with the provisions of this act or any part of this act are hereby expressly repealed.

Mr. Ward offered the following amendment to said bill, viz.:

Amend S. B. 5 in the House by adding at the end of said bill on page 26 of the printed bill an additional paragraph as follows:

Section 32. Whereas, many Rural Electric Cooperative Corporations are now ready to be organized and delay in their organization will endanger their receiving the federal funds appropriated for that purpose, an emergency is hereby declared to exist and this act shall become a law and be effective from and after its passage and approval by the Governor.

Said amendment was agreed to.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Ollie J. Bowen	George S. Clay
Henry H. Allen	Wallace Brown	Roy Conway
H. T. Baker	Dr. R. A. Byers	Herbert Cook
B. F. Bedford	Jas. C. Carter	Harry Davis
Reuben J. Boling	V. O. Chandler	Sam Dever
Douglas Bolling	Roscoe Claxon	Howard G. Early

Garland Embry	Leslie Larrimore	Harry C. Records
Walter R. Fannin	Robert E. Lee	L. K. Rice
T. P. Fitzpatrick	T. B. McConnell	Wade H. Riley
G. W. Garrett	Lloyd MacDonald	Joe E. Robinson
Ferd A. Gnau	W. F. McGary	Carl Scheben
Eugene Gough	Elmer McGlothen	Ray O. Shehan
Ben Grogan	John Marshall	Dr. B. F. Shields
Jas. T. Hamilton	C. S. Matherly	P. L. Sidebottom
C. L. Hammons	D. T. Matlack	Chester D. Silvers
W. L. Hampton, Jr.	Duke Mayfield	H. C. Steely
Thomas W. Hines	John B. Mollett	Henry Stewart
Price Holbrook	Tyler Munford	Dr. H. S. Swope
Clyde S. Howard	Rodes K. Myers	J. J. Thomas
Ira W. Hulette	J. C. Nickell	S. J. Wagner
John M. Hunnicut	Russell O'Neill	Joseph L. Wall
J. H. Jones	Mel Petry	Henry Ward
O. C. Jones	A. W. Pfeiffer	W. G. Williams
R. T. Kirkman	J. C. Ramey	
J. F. Ladd	Hobart Rayburn	—73

Mr. Ward offered the following amendment to the title of said bill, viz.:

Amend the title of S. B. 5 by striking out the period at the end of the title, inserting a comma (,) in lieu thereof and adding the following: "and declaring an emergency to exist."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Fitzpatrick moved that when the House adjourn today it adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in that body entitled:

S. B. 22. An Act to provide for the supervision and regulation of the production, sale, marketing and distribution of tobacco; etc.

Ordered that said bill be printed and referred to Committee on Agriculture No. 2.

After a time Mr. John Robinson of the Committee on Agriculture No. 2 to which the same had been referred, reported a bill entitled:

S. B. 22. An Act to provide for the supervision and regulation of the production, sale, marketing and distribution of tobacco; etc.

Without an expression of opinion.

Said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Myers moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, JANUARY 14, 1937.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen
Henry H. Allen
C. W. Anderson, Jr.
H. T. Baker
W. T. Baker
B. F. Bedford
Reuben J. Boling
Douglas Bolling
Ollie J. Bowen
Wallace Brown
Dr. R. A. Byers
Jas. C. Carter
V. O. Chandler
Floyd Clark
Roscoe Claxon
George S. Clay
Roy Conway
Herbert Cook
Harry Davis
Sam Dever
Stanley S. Dickson
George W. Dunlap
Howard G. Early
Garland Embry
Walter R. Fannin
Chas. P. Farnsley
T. P. Fitzpatrick
H. Myer Garner
James Garnett, Jr.
G. W. Garrett
Ferd A. Gnau
Eugene Gough
Ben Grogan
Jas. T. Hamilton
C. L. Hammons
W. L. Hampton, Jr.
Thomas W. Hines
Price Holbrook
Clyde S. Howard
Ira W. Hulette
John M. Hunnicut
Ben W. Johnson
J. H. Jones
O. C. Jones
R. T. Kirkman
J. F. Ladd
Leslie Larrimore
Robert E. Lee
M. T. McCarthy
T. B. McConnell
J. L. McDermott
Lloyd MacDonald
W. F. McGary
Elmer McGlothen
John Marshall
D. T. Matlack
Duke Mayfield
G. S. Milam
W. H. Miller
John B. Mollett
W. E. Mull
Rodes K. Myers
J. C. Nickell
Russell O'Neill
Mel Petry
A. W. Pfeiffer
J. C. Ramey
Hobart Rayburn
L. K. Rice
Wade H. Riley
Joe E. Robinson
John C. Robinson
W. T. Rollo
A. W. Ross
Carl Scheben
Ray O. Shehan
Dr. B. F. Shields
P. L. Sidebottom
Chester D. Silvers
Bruce Sloan
H. C. Steely
Henry Stewart
Dr. H. S. Swope
W. R. Tapp
R. Van Bever, Jr.
S. J. Wagner
Joseph L. Wall
Henry Ward
L. R. Wells
W. G. Williams
Charles Wylie
John Kirtley, Spkr.

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Conway moved that the privilege of the floor be extended to Dr. B. F. Wright.

Said motion was agreed to.

Mr. Marshall moved that the privilege of the floor be extended to Mr. G. A. Brooks.

Said motion was agreed to.

Mr. Riley moved that the privilege of the floor be extended to Mr. J. M. Carrick and V. J. Steele.

Said motion was agreed to.

Mr. Hulette moved that the privilege of the floor be extended to Mr. Charles Mitchell.

Said motion was agreed to.

Mr. McConnell moved that the privilege of the floor be extended to Mr. W. D. Dawson.

Said motion was agreed to.

Mr. Hines moved that the privilege of the floor be extended to Messrs. Chesney Smith, J. W. Waddell, Theron Graves, Cliff Moore of Morgantown and Mr. J. B. Davenport of Bowling Green, Kentucky.

Said motion was agreed to.

Mr. Hunnicutt moved that the privilege of the floor be extended to Mr. G. R. Rouse, teacher in the Fort Thomas schools, and his pupils.

Said motion was agreed to.

Mr. Ross moved that the privilege of the floor be extended to Mr. John Beckett and Mr. W. C. Aulack.

Said motion was agreed to.

Mr. Gnau moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Fitzpatrick moved that Miss Layes Hulette, granddaughter of the Hon. Ira Hulette be made an Honorary Page of this House.

Said motion was agreed to.

Mr. Hulette moved that Master John Mitchell of Franklin county be appointed an Honorary Page of this House.

Said motion was agreed to.

Mr. Dickson of the Committee on Enrollment reported that they had examined and found to be correctly enrolled a resolution entitled:

S. Res. 12. Joint Resolution ratifying the proposed amendment to the Constitution of the United States, to prohibit child labor.

Thereupon all other business was suspended, said resolution was read at length and compared in open session and

found to be correctly enrolled, and thereupon, the Speaker in open session and in the presence of the House affixed his signature thereto.

Ordered that said resolution be delivered to the Enrolling Clerk of the Senate.

Mr. Gnau moved that this House be of record as disapproving and condemning the reckless driving of trucks over the highways of the Commonwealth of Kentucky.

Said motion was agreed to.

The Speaker presented to the House the Reverend R. L. Tally of Hodgenville, Kentucky, father of Mrs. John Kirtley.

Mr. Dunlap of the Committee on Kentucky Statutes No. 1, to which the same had been recommitted, reported a bill entitled:

H. B. 24. An Act repealing, amending and re-enacting Section 14 of Chapter 1 of the Acts of the General Assembly of 1936.

Without an expression of opinion.

Ordered that said bill take its place in the Orders of the Day.

Dr. Shields moved that the Rules of this House be suspended for the purpose of taking up for consideration the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills and resolution of the following titles, viz.:

S. Res. 11. Resolution for the benefit of the employees of the House and Senate.

S. B. 21. An Act relating to the use of funds held by counties under the terms of Section 14, Chapter 25 of the Acts of the General Assembly, Special Session of 1934.

S. B. 22. An Act to provide for the supervision and regulation of the production, sale, marketing and distribution of tobacco.

Ordered that said bills and resolution be read the second time.

The constitutional provision as to the second reading of said bills and resolution at length being dispensed with, said bills and resolution were read the second time by their titles only.

Ordered that said bills and resolution be placed in the Orders of the Day.

Dr. Shields moved that the Rules of this House be suspended and that the House take up for immediate consideration a bill entitled:

H. B. 24. An Act repealing, amending and re-enacting Section 14 of Chapter 1 of the Acts of the General Assembly, Third Extraordinary Session, of 1936.

Said motion was agreed to.

Thereupon the House took up for immediate consideration said bill.

Said bill is as follows, viz.:

H. B. 24. An Act repealing, amending and re-enacting

Section 14 of Chapter 1 of the Acts of the General Assembly, Third Extraordinary Session, of 1936.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 14 of Chapter one of the Acts of the General Assembly, Third Extraordinary Session, of 1936 is hereby repealed, amended and re-enacted so that as re-enacted it shall read as follows:

Section 14. *Sales by licensees to purchasers without the State; export stamps.* The sale or distribution of alcoholic beverages by licensees in this State to purchasers located without this State shall not be subject to the taxes imposed by this act (1) if the purchaser is the holder of a valid permit from the Federal Government and from the State to which said alcoholic beverages are consigned, entitling him to purchase, receive and possess said alcoholic beverages, (2) if delivery of the alcoholic beverages is not made in Kentucky to the purchaser or any agent of the purchaser other than a common carrier authorized to do business in Kentucky, and (3) if the stamp required by this section has been properly affixed by the vendor.

The Department shall provide an export stamp which shall be furnished to licensed wholesalers without charge.

Alcoholic beverages in the possession of licensed wholesalers, intended for sale or distribution and shipment to purchasers located without this state, and not intended for sale or distribution by gift or sale within Kentucky, may be stamped with the export stamps above provided for and the affixing of said export stamps within twenty-four (24) hours of the time possession of said alcoholic beverages is acquired shall be deemed to satisfy the requirements of Section Five (5) of this Act.

Mr. Milam moved that said bill be laid on the table.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Milam and Hunnicutt, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Ira W. Hulette	W. T. Rollo
C. W. Anderson, Jr.	John M. Hunnicut	A. W. Ross
B. F. Bedford	J. H. Jones	Carl Scheben
Douglas Bolling	R. T. Kirkman	Ray O. Shehan
Jas. C. Carter	J. F. Ladd	P. L. Sidebottom
Roscoe Claxon	J. L. McDermott	H. C. Steely
George S. Clay	Lloyd MacDonald	Henry Stewart
Roy Conway	Elmer McGlothen	Dr. H. S. Swope
Harry Davis	G. S. Milam	W. R. Tapp
Walter R. Fannin	W. H. Miller	J. J. Thomas
T. P. Fitzpatrick	John B. Mollett	S. J. Wagner
G. W. Garrett	W. E. Mull	Henry Ward
Ferd A. Gnau	Rodes K. Myers	L. R. Wells
Ben Grogan	Russell O'Neill	W. G. Williams
Jas. T. Hamilton	A. W. Pfeiffer	Charles Wylie
C. L. Hammons	Hobart Rayburn	
Price Holbrook	Wade H. Riley	—49

Those who voted in the negative were—

Henry H. Allen	Eugene Gough	Mel Petry
W. T. Baker	W. L. Hampton, Jr.	J. C. Ramey
Ollie J. Bowen	Clyde S. Howard	L. K. Rice
Wallace Brown	Ben W. Johnson	Joe E. Robinson
V. O. Chandler	T. B. McConnell	John C. Robinson
Stanley S. Dickson	John Marshall	Dr. B. F. Shields
George W. Dunlap	J. C. Nickell	Joseph L. Wall

—21

And so said bill was tabled.

Ordered that Mr. Robert E. Lee be granted an indefinite leave of absence.

Dr. Shields moved that the House do now recess until one-fifteen o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of one-fifteen o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Ordered that a leave of absence be granted to Mr. James Garnett.

Dr. Shields moved that a bill entitled:

S. B. 22. An Act to provide for the supervision and regulation of the production, sale, marketing and distribution of tobacco.

Be recommitted to the Committee on Agriculture No. 2 and that said bill retain its place in the Orders of the Day.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed a bill and resolutions which originated in that body, entitled:

1. S. B. 27. An Act to prohibit distribution, sale or exchange of goods, wares and merchandise made by prison labor.

2. S. Res. 10. Joint Resolution to permit Ohio County to relocate a Highway Bridge.

3. S. Res. 13. Joint Resolution to compensate the ministers of Frankfort, Kentucky.

4. S. Res. 14. Joint Resolution to authorize State Librarian to purchase 500 copies of the Kentucky Directory for members of General Assembly.

Ordered that said bill and resolutions be printed and referred as follows:

1. To Committee on Cities of the Third Class.
2. To Committee on Kentucky Statutes No. 1.
3. To Committee on Appropriation No. 1.
4. To Committee on Appropriation No. 1.

Dr. Shields moved that the House do now recess for thirty minutes.

Said motion was agreed to.

And then the House recessed.

After a time the Speaker resumed the chair and called the House to order.

Mr. Sloan moved that the privilege of the floor be extended to Mr. R. A. Poage, L. Hopper of Burkesville, Kentucky.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 18. An Act to amend and re-enact Sections 4883, 4887, 4893, 4932, 4933, 4934 and 4957 of Carroll's Kentucky Statutes, 1930 Edition, being Sections 4, 7, 12, 33, 50, 51 and 74 of Chapter 33, Acts of the General Assembly, 1916 Session, as amended, commonly known as the "Kentucky Workmen's Compensation Act".

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Section 4883 of Carroll's Kentucky Statutes, 1930 Edition, be repealed and re-enacted, and when so re-enacted the same shall read as follows:

In addition to all other compensation herein provided, such medical, surgical and hospital treatment, including nursing, medical and surgical supplies and appliances, as may reasonably be required at the time of the injury and therefter during disability, but not exceeding ninety days nor exceeding a total expense to the employer of more than two hundred dollars on account of the benefits provided by this section, unless the board shall, by order made within that time, direct an extension of said period of treatment or direct an extension of said limit of expense to not exceeding four hundred dollars, to cure and relieve from the effects of the injury shall be furnished by the employer, and, in case of his refusal or neglect reasonably to do so, the employer shall be liable for the reasonable expense, within the limits of this action, incurred by or on behalf of the employee in providing the same. In the event of an emergency, the employee shall have the right to call in any available physician or surgeon to administer such first aid as may reasonably be necessary at the expense of the employer within the limits of this action. The board, in its discretion, may apportion payments to be made under this section between hospitals and physicians in cases where their aggregate fees and charges would exceed the maximum for which the employer is liable.

§ 2. That Section 4887 of Carroll's Kentucky Statutes, 1930 Edition, be repealed and re-enacted, and when so re-enacted the same shall read as follows:

Except as provided in sections four and five hereof, no compensation shall be payable for the first seven days of disability, and all compensation shall be payable on the regular pay-day of the employer, commencing with the first regular pay-day after seven days after the injury, with interest at the rate of 6 per cent per annum on each installment from the time it is due until paid; if, however, such disability shall continue for a period of more than four weeks, then compensation shall be allowed from the first day of such disability.

§ 3. That Section 4893 of Carroll's Kentucky Statutes, 1930 Edition, be repealed and re-enacted, and when so re-enacted the same shall read as follows:

If death results within two years from an accident for which compensation is payable under this act, the employer or his insurer shall pay to the person entitled to compensation, or, if none, then to the personal representative of the deceased employee reasonable burial expenses of a person of the standard of living of the deceased, not to exceed the sum of $150.00, and shall also pay to or for the following persons compensation as follows, to wit:

(1) If there are no dependents as herein defined, there shall be paid, in addition to the burial expenses and medical expenses, if any, otherwise provided for herein, the further sum of $100, payment to be made to the personal representative of the deceased employee.

(2) If there are one or more wholly dependent persons 65 per cent of the average weekly earnings of the deceased employee, but not to exceed $12 nor less than $5 per week shall be payable, all such payments to be made for the period between the date of death and 335 weeks after the date of accident to the employee, or until the intervening termination of dependency, but in no case to exceed the maximum sum of $4,000.00.

(3) If there are partly dependent persons, the payments shall be such part of what would be payable for total dependency as the partial dependency existing at the time of the accident to the employee may be proportionate to total dependency, and all such payments to be made for the period between the date of death and 335 weeks after the date of the accident to the deceased employee, or until the intervening termination of dependency, but in no case to exceed in the aggregate of compensation on account of such death the maximum sum of $4,000.00.

Partial dependency shall be determined by the proportion of the earnings of the employee which have been contrib-

uted to such partial dependent during one year next preceding the date of injury; if the relation of partial dependency shall not have existed for one year next preceding the date of injury, board shall consider all the facts and circumstances and fix such proportion as may be fair and reasonable thereunder.

(4) All relations of dependency, herein referred to shall be construed to mean dependency existing at the time of accident to the employee.

§ 4. That Section 4933 of Carroll's Kentucky Statutes, 1930 Edition, be repealed and re-enacted, and when so re-enacted the same shall read as follows:

The board, or any of its members, shall hear the parties at issue and their representatives and witnesses and shall determine the dispute in a summary manner. The award shall be made within thirty days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within ninety days after final submission in any event. The award, together with a statement of the findings of fact, rulings of law and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award shall immediately be sent to the parties in dispute.

§ 5. That Section 4934 of Carroll's Kentucky Statutes, 1930 Edition, be repealed and re-enacted, and when so re-enacted the same shall read as follows:

If an application for review is made to the Board within seven (7) days from the date of the award the full board, if the first hearing was not held before the full board, shall, as soon as practicable, review the evidence, or, if deemed advisable, hear the parties at issue, their representatives and witnesses, and shall make an award and file the same in like manner as specified in the foregoing section.

If a party introduce at a hearing before the full board a witness whose testimony at the original hearing appears in the transcript of evidence taken thereat, the costs accruing

through the attendance of such witness and the transcribing of his testimony at the second hearing shall be borne by the party introducing him at such hearing, regardless of the outcome of the controversy.

§ 6. That Section 4957 of Carroll's Kentucky Statutes, 1930 Edition, be repealed and re-enacted, and when so re-enacted the same shall read as follows:

Election to operate under the provisions of this act shall be effected by the employee by signing the following notice, to wit:

"I hereby agree with (name of employer) to accept the provisions of Chapter thirty-three, Acts of 1916, commonly known as the Kentucky Workmen's Compensation Act."

The election shall be effective from and including the date of signing which shall be inserted opposite the employee's signature. In case an employee be unable to write, his mark shall be witnessed by a third person, who shall at the time read the notice to the employee. Any number of employees may sign the same notice, provided that there be conspicuously written or printed at the top of each page thereof on which signatures appear a copy of the above form of notice. If the employment at any time be suspended for less than one year, the original acceptance of the employee shall continue effective in subsequent employment under the same employer, unless withdrawn in the manner provided under Section 4959 of this Act.

Identification of such signature or mark of the employee shall constitute conclusive proof of his election to operate under the provisions of this act, in any hearing or proceeding in which such election may be material or in issue.

Whenever, in the hearing of a claim for compensation on account of the death of an employee, it shall have been shown that at the time of the accident alleged to have resulted in the death of such employee, the employer had accepted and was

operating under the provisions of this Act and that employee sustained such accident in the course of his employment, such evidence shall constitute *prima facie* proof that the deceased himself duly accepted the provisions of this Act.

Mr. Shehan moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Harry Davis	W. L. Hampton, Jr.
Henry H. Allen	Sam Dever	Price Holbrook
W. T. Baker	Stanley S. Dickson	Clyde S. Howard
B. F. Bedford	Howard G. Early	Ira W. Hulette
Reuben J. Boling	Garland Embry	John M. Hunnicut
Douglas Bolling	Walter R. Fannin	Ben W. Johnson
Ollie J. Bowen	Chas. P. Farnsley	J. H. Jones
Wallace Brown	T. P. Fitzpatrick	O. C. Jones
Dr. R. A. Byers	H. Myer Garner	R. T. Kirkman
Jas. C. Carter	G. W. Garrett	J. F. Ladd
V. O. Chandler	Ferd A. Gnau	Leslie Larrimore
Roscoe Claxon	Eugene Gough	Robert E. Lee
George S. Clay	Ben Grogan	M. T. McCarthy
Roy Conway	Jas. T. Hamilton	T. B. McConnell
Herbert Cook	C. L. Hammons	J. L. McDermott

Lloyd MacDonald	Mel Petry	Bruce Sloan
W. F. McGary	A. W. Pfeiffer	H. C. Steely
Elmer McGlothen	J. C. Ramey	Henry Stewart
John Marshall	Hobart Rayburn	Dr. H. S. Swope
C. S. Matherly	L. K. Rice	W. R. Tapp
D. T. Matlack	Wade H. Riley	J. J. Thomas
Duke Mayfield	Joe E. Robinson	R. Van Bever, Jr.
G. S. Milam	John C. Robinson	S. J. Wagner
W. H. Miller	W. T. Rollo	Joseph L. Wall
John B. Mollett	A. W. Ross	Henry Ward
W. E. Mull	Carl Scheben	L. R. Wells
Tyler Munford	Ray O. Shehan	W. G. Williams
Rodes K. Myers	Dr. B. F. Shields	Charles Wylie
J. C. Nickell	P. L. Sidebottom	—86.

Resolved that the title thereof be as aforesaid.

Mr. Shehan moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration a bill which was reported from the Senate to this House on yesterday, entitled:

H. B. 9. An Act to repeal and re-enact Sections 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, pertaining to municipal housing, etc.

With Senate amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of January 6.)

Said amendments as proposed and adopted by the Senate, are as follows, viz.:

Amend House Bill No. 9 (In Senate) as follows:

Page 1, Section 2741x-1, Line 7 of the printed bill, after words "third class" strike out "and" and insert a comma (,).

Line 8 of same section, after words "fourth class" add "and fifth class".

Page 2, Section 2741x-2, line 25, after "third class" change "or" to a comma (,).

Page 2, line 26, after "class" add "or fifth class".

Page 3, line 58, after comma after "third class" strike out "or".

Page 3, line 58, after "fourth class" change period to comma and add "or fifth class".

Page 3, line 67, after word "third class" change "or" to comma (,).

Page 3, line 67, after words "fourth class" add "or fifth class".

Page 4, line 69, after words "third class" change "or" to comma (,).

Page 4, line 70, after "fourth class" add "or fifth class".

Page 4, Section 2741x-10, line 75, after word "third" change "and" to comma.

Page 4, line 75, after word "fourth" add "and fifth".

Page 4, line 83, after words "third class" change words "or the" to comma.

Page 4, line 83, after words "fourth class" add these words: "or the fifth class".

Page 6, line 134, after word "third" change "and" to comma (,).

Page 6, line 134, after word "fourth" add words "and fifth".

Page 6, line 135, after word "third" add "comma (,)".

Page 6, line 136, after word "fourth" add words "and fifth".

Page 6, line 142, after word "fourth" add words "and fifth".

Page 6, line 145, before word "class" insert "and fifth".
Page 6, line 147, after word "fourth" add "and fifth".
Page 6, line 149, change word "two" to "three".

Amend title to House Bill No. 9 (In Senate) as follows:

H. B. 9. An Act to repeal and re-enact Section one, two and ten of Chapter 113 of the Acts of the General Assembly of 1934, being Sections 2741x-1, 2741x-2 and 2741x-10, Kentucky Statutes, Carroll's Edition, 1936, pertaining to municipal housing and extending the privileges of said statutes to include cities of the third, fourth, and fifth classes as well as cities of the first and second classes, and declaring the existence of an emergency and providing for the repeal of all acts and parts of acts which may be inconsistent therewith. This bill shall be known as the Hulette-Miller bill.

Mr. Myers moved that the House do now refuse to concur in said amendments.

By unanimous consent said motion was withdrawn.

Mr. Clay moved that the House do now concur in said amendments.

Said motion was agreed to.

Said amendments were each and severally agreed to.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	C. W. Anderson, Jr.	B. F. Bedford
Henry H. Allen	W. T. Baker	Reuben J. Boling

Douglas Bolling	W. L. Hampton, Jr.	J. C. Nickell
Ollie J. Bowen	Thomas W. Hines	A. W. Pfeiffer
Wallace Brown	Clyde S. Howard	J. C. Ramey
Dr. R. A. Byers	Ira W. Hulette	Hobart Rayburn
Jas. C. Carter	J. H. Jones	L. K. Rice
V. O. Chandler	O. C. Jones	W. T. Rollo
Roscoe Claxon	R. T. Kirkman	A. W. Ross
George S. Clay	J. F. Ladd	Carl Scheben
Herbert Cook	Leslie Larrimore	Ray O. Shehan
Harry Davis	Robert E. Lee	Dr. B. F. Shields
Sam Dever	M. T. McCarthy	P. L. Sidebottom
Stanley S. Dickson	T. B. McConnell	H. C. Steely
Howard G. Early	J. L. McDermott	Henry Stewart
Garland Embry	Lloyd MacDonald	Dr. H. S. Swope
Walter R. Fannin	W. F. McGary	W. R. Tapp
Chas. P. Farnsley	Elmer McGlothen	J. J. Thomas
T. P. Fitzpatrick	John Marshall	R. Van Bever, Jr.
H. Myer Garner	D. T. Matlack	Joseph L. Wall
G. W. Garrett	Duke Mayfield	L. R. Wells
Eugene Gough	John B. Mollett	W. G. Williams
Ben Grogan	W. E. Mull	Charles Wylie
Jas. T. Hamilton	Tyler Munford	
C. L. Hammons	Rodes K. Myers	—73

Mr. Clay moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Douglas Boling moved that the Rules of this House be suspended for the purpose of introducing resolutions.

Said motion was agreed to.

Thereupon the following resolution was introduced by Mr. Douglas Boling:

H. Res. 19. A Resolution authorizing the General Assembly to appropriate and pay to Dora Evans, the mother of Clarence Evans, the per diem which would have been due and payable to Clarence Evans during this special session of December 23, 1936, to January 16, 1937, and declaring that said per diem is a necessary and legitimate expense of this present Legislative session.

Said resolution is as follows, viz.:

Whereas, The Hon. Clarence Evans of Franklin, Simpson County, Kentucky, was duly elected a member of the Legislature from the 27th legislative district of Kentucky and that his term of office as such member of the Legislature would not have expired until December 31, 1937, and

Whereas, The said Clarence Evans died, while a member of the Legislature from the said 27th legislative district of Kentucky on the ..... day of March, 1936, and

Whereas, No person has been elected or qualified to represent said district, and

Whereas, The Governor of the Commonwealth of Kentucky called the Legislature into special session on December 23, 1936, and

Whereas, Dora Evans is the mother of Clarence Evans and depended to a great extent for her support upon her son, the deceased, Clarence Evans, and

Whereas, The General Assembly has heretofore passed resolution appropriating seventy-five thousand ($75,000.00) dollars for the expense of this present special session of the Legislature and out of which the per diem of each member of the Legislature will be paid, and

Whereas, The Legislature feels that the per diem which would have been due the said Clarence Evans if he had lived and served his full term of office as a member of the General

Assembly as Representative from the said 27th legislative district of Kentucky, should be and is hereby appropriated and allowed and ordered paid to his mother, Dora Evans, and

Whereas, It is resolved that same is legitimate expenses of this present session of the Legislature: Therefore,

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the per diem due Clarence Evans as a member of the Legislature from the 27th legislative district of Kentucky be now allowed, appropriated and paid to Dora Evans, his mother, and that the Auditor of Public Accounts be and is hereby directed to draw a warrant for the amount which would would have been due Clarence Evans during this special session of the Legislature in favor of Dora Evans, mother of Clarence Evans, and that the Treasurer draw his check for said amount payable to Dora Evans as provided for in this resolution.

Said resolution was adopted.

Mr. McCarthy offered the following resolution, viz.:

H. R. 20. Whereas, The Legislative Council shall in all probability meet within the next several months for the purpose of consideration of future legislation, and

Whereas, The subject of greyhound dog racing is a much debated and misunderstood subject, and

Whereas, the proponents desire that the subject of greyhound dog racing be thoroughly understood in order that it may be properly considered by the Kentucky General Assembly, and

Whereas, the proponents of this subject believe that sufficient revenues could be derived from the legislation of greyhound dog races in the Commonwealth so that other burdensome taxes could be lifted and repealed, now Therefore

Be it resolved That at the next meeting of the Legislative Council the subject of greyhound dog racing be considered, studied, and investigated, with particular attention given its revenue possibilities, and

Be it further resolved, That the Legislative Council make all diligent efforts to procure from all the other states wherein dog racing is legalized by law all available data, revenue reports, and other information pertinent to the subject to be used as a base of study.

Mr. Dickson moved that said resolution be laid on the table.

Said motion was agreed to.

And so said resolution was tabled.

Mr. McCarthy offered the following resolution, viz.:

H. R. 21. *Be it resolved,* That the Legislative Council of this General Assembly be requested to make a study of county governmental reorganization in Kentucky, particularly with reference to the abolition of the fee system of compensation for county officials to the end that all fees shall be deposited in the public treasury and such officials compensated on a definite salary basis; and further, with particular reference to the abolition of unnecessary county offices and the merging of overlapping functions of all local governmental units in Kentucky; and further, with particular reference to the setting up of the commissioner type of county government in place of the magisterial form now prevailing in the majority of the counties of Kentucky.

Be it further resolved, That such study by the Legislative Council be completed in time to present to the next session of the General Assembly of this Commonwealth, either a special session or the next regular session, in the form of a bill or

bills suitable for consideration by the General Assembly and enacted into law.

Mr. Ladd moved that said resolution be laid on the table.

Said motion was disagreed to.

Said resolution was then adopted.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 2. An Act relating to revenue and taxation and repealing Sections 4064, 4241, 4257a, 4260-2, 4260-3, 4260-4, 4260a, 4260d-3, and 4265, Kentucky Statutes Carroll's 1930 and 1936 Editions, and repealing, amending and re-enacting Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260d-1, 4261, 4262, 4263, 4019a-13, and 4267 of said Statutes; and repealing all laws in conflict with this Act to the extent of such conflict, and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The Commissioner of Revenue hereby is empowered and authorized to act in the name of and in behalf of the Commonwealth of Kentucky and in the name of and in behalf of any and all counties and school districts and other taxing districts in the Commonwealth of Kentucky, excepting and excluding municipalities of the First to Sixth Classes inclusive, to institute any suit, action or proceeding for the collection of delinquent taxes and the assessment of omitted property, and to ast as relator in any and all actions brought for the collection of delinquent taxes or the assessment of omitted property for the Commonwealth of Kentucky and any and all counties, school districts and other taxing districts in

the Commonwealth of Kentucky, excepting and excluding cities of the First to Sixth Classes, inclusive, and to employ field agents, accountants and attorneys to bring and prosecute all such actions and proceedings, and to fix the salaries or compensation of such agents, accountants and attorneys, including the payment of their necessary expenses. The employment and compensation of such agents, accountants and attorneys shall be approved by the Governor of the Commonwealth of Kentucky in writing.

Nothing contained in this Act shall in any way prohibit or prevent the Commissioner of Revenue or the Kentucky State Tax Commission from assessing any property in accordance with the following provisions of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being Chapter 108, Article 4, being Sections 4077 to 4095 of the Kentucky Statutes, and Section 4114i-11, and the proceedings embraced and referred to therein and as now permitted under the law.

§ 2. All power and authority heretofore or now vested in revenue agents and auditor's agents and sheriffs and other State, county or district agents or officers relating to the bringing or prosecution of actions or proceedings for the assessmen of omitted property or the collection of delinquent taxes, for or on behalf of the Commonwealth of Kentucky, for or on behalf of any county, school district or other taxing district in the Commonwealth of Kentucky, excepting and excluding municipalities of the First to Sixth Classes, inclusive, hereby are transferred to and vested in the Commissioner of Revenue. All penalties heretofore or now imposed or provided to be imposed by law, either in whole or in part, in favor of or for the benefit of revenue agents, auditor's agents, sheriffs and other State, county or district agents or officers, upon or for the recovery of taxes or the assessment of omitted property, shall as and when collected be covered into the State Treasury and credited as hereinafter provided.

Nothing contained in this Act shall be construed as re-

pealing or affecting any of the provisions of Sections 4151-2 and 4153 of Carroll's Kentucky Statutes, 1936 Edition.

§ 3. Sections 4064, 4241, 4257a, 4260-2, 4260-3, 4260-4, 4260a, 4260d-3 and 4265, Kentucky Statutes, and each of said sections, be and the same hereby are repealed.

§ 4. Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260d-1, 4261, 4262, 4263, 4019a-13 and 4267, Kentucky Statutes, and each of said sections, be and the same hereby are repealed, amended and re-enacted to read as follows:

4258. It shall be the duty of each field agent, accountant and attorney appointed by the Commissioner of Revenue before instituting or causing to be instituted any suit, action or proceeding which he is or may be authorized by law to institute, to file a copy of same with the Commissioner of Revenue and accompany same with a verified statement of the facts upon which it is based; and no action, suit or proceeding shall be instituted or caused to be instituted by any field agent, accountant or attorney under the provisions of this Act until same is approved and authorized by the Commissioner of Revenue. No action or proceeding shall be settled by any field agent, accountant or attorney except by judgment in open court, and no compromise or agreed judgment shall be entered in any such action or proceeding until there is filed with the Commissioner of Revenue a statement verified by said field agent, accountant or attorney stating the facts and showing the reasons why a compromise or agreed judgment should be entered, and shall further state that no agreement or settlement other than the one stated in the proposed judgment has been directly or indirectly entered into by him or anyone for him, and that said proposed settlement is for the best interest of the Commonwealth; and any false statement in said verified report knowingly made by said field agent, accountant or attorney shall constitute false swearing and punishment as such, upon indictment by the grand jury of the county in which said affidavit is made, shall be as provided in

Section 1174, Carroll's Kentucky Statutes. Upon receiving said report it shall be the duty of the Department of Revenue to investigate the action or proceedings in which it is proposed to enter a compromise of agreed judgment, and if satisfied it is for the best interest of the Commonwealth to agree to same, the Commissioner of Revenue shall approve same and send it to the field agent, accountant or attorney who shall file the same in court in which said action or proceeding is pending and same shall authorize the court as far as the Commonwealth, county, school district and other taxing district for which the Commissioner of Revenue is acting as realtor, is concerned to enter said compromise or agreed judgment. Each field agent, accountant and attorney shall keep a set of books in which shall be kept a list of all actions and proceedings instituted or caused to be instituted by him together with the final disposition of same; and each field agent, accountant and attorney is directed to report immediately to said Commissioner of Revenue all important steps taken in any action or proceeding on behalf of the Commonwealth, or any county school district or other taxing district for which and in the name of which the Commissioner of Revenue is authorized to act as relator. It shall be the duty of said Department of Revenue to examine the books and accounts of said agents, accountants and attorneys at any time it deems proper, and said books and accounts shall at all times be open to its inspection.

4259. Before entering upon the discharge of the duties of his employment, each field agent and accountant of the Department of Revenue shall be required to execute a bond to the Commonwealth of Kentucky deemed good and sufficient by the Commissioner of Revenue with a corporate surety authorized to do business in Kentucky, conditioned upon the faithful performance of all duties imposed upon said field agent or accountant by the Commissioner of Revenue. The premiums on said bonds shall be paid by the said Department.

The Commissioner of Revenue shall have the authority to require the aforesaid bond to be renewed when he deems the interest of the Commonwealth of Kentucky to require it.

4260-1. It shall be the duty of the field agents, accountants and attorneys of the Department of Revenue to cause to listed for taxation all property omitted by the County Tax Commissioners, board of supervisors, Kentucky Tax Commission, acting as a board of valuation and assessment, or any other assessing authority, for any year or years so omitted. The field agent, accountant or atttorney proposing to have the property assessed shall file in the clerk's office of the county in which the property may be liable to assessment a statement containing a description and value of the property proposed to be assessed, and the value of the corporate franchise, if any, and if known, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, and the year or years said property was unassessed and for which the property is proposed to be assessed. The clerk of the court shall thereupon issue a summons against the owner, or person in possession of said property, if the owner is unknown, to show cause before the next regular term of the county court, which does not commence within five days after the service of such summons, why such property or corporate franchise, if any, shall not be assessed at the value named in the statement filed; but no judgment by default or otherwise shall be rendered against such alleged owner unless the statement filed shall contain such description of the property sought to be assessed as will enable the court to identify it. The summons shall be executed by the sheriff of the county by delivering a copy thereof to the owner, if in the county, if not, then to his agent, attorney or person in possession of the property. And in the event that the owner of said property is known but is absent from the state, and he has no attorney or agent in this state, and no one is in possession of said property, if said property consists of real estate, the summons shall be served by posting same in a conspicuous place upon

said property; if the property consists of tangible personal property said summons shall be placed in a conspicuous place where said property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown, and no one has possession or custody thereof, an action for the assessment of said property shall be instituted by filing the petition above mentioned and by procuring constructive service against the owner of the property described in said petition, as is required and provided under the provisions of Sections 57, 58, 59, and 60, of the Civil Code of Practice of Kentucky against persons whose names and places of residence are unknown. In all of the above cases an attachment of the property omitted from assessment may be procured against the owner thereof without the execution of a bond by the Commonwealth or its relator at the time of the institution of the action or thereafter by the representative or attorney of the Commissioner of Revenue making an affidavit that the said property described in the petition is subject to state, county, school district or other taxing district tax, and is unassessed for any taxable year. At the next regular term of the county court after the summons has been served for five days or the warning order against the defendant, whose name and place of residence are unknown, has been made for thirty days, if it shall appear to the court that the property is liable for taxation and has not been assessed, the court shall enter an order fixing the value thereof at the fair cash value estimated as required by law; and he shall certify the assessment of said property and its value together with such other facts as may be required by law or directed by the court to appear in said judgment, to the Department of Revenue and likewise to the sheriff of the county, together with the amount of penalty and cost of assessment, in order that the taxes due the Commonwealth, county, school district or any other taxing district may be collected, with the penalty and costs; if not liable for taxes, he shall make an order to that effect. The judgment of the court

shall have the same force and effect as the judgment of the court in civil cases. Either party may appeal from a decision of the county court to the circuit court, and then to the Court of Appeals as in other civil cases, except that no appeal bond shall be required where the appeal is by the Commissioner of Revenue acting as the relator. In the even the owner of said property fails to pay the tax assessed, interest, penalties, and costs, the lien under the attachment may be enforced and a sufficiency of the property sold to pay said obligation to the Commonwealth of Kentucky, county, school district or other taxing district. All persons owning property which may be assessed as herein provided, shall in addition to the taxes and interest from the time the taxes should have been paid, pay the costs of the proceedings and a penalty of twenty per cent (20%) on the amount of the taxes due the State and county, or school district, or other taxing district, except where such property shall have been duly listed and the taxes paid thereon within the time prescribed by law, and except where some other or different penalty is expressly provided by law. The taxes, costs and penalties shall be collected, and accounted for as other taxes and penalties are required to be collected, and by the same officers. The county clerk shall enter all such assessments in his book to be kept for that purpose, showing the date of the assessment, the name of the person against whom the assessment is made, the location and description of the property assessed, and the value thereof; and the officer collecting the taxes shall, when the same is paid, notify the clerk of its payment, which payment shall be noted by the clerk opposite the entry of such assessment.

4260b. It shall be the duty of the county clerk, upon the filing of any statement by any agent, accountant or attorney for the Department of Revenue for the assessment of omitted property, to enter the name of the attorney for the Depatment of Revenue, whose name is signed to such statement as attorney for said Department, and to enter the name of the county attorney for said county, as attorney on behalf of the State,

county, school district or districts, and other taxing districts for which the Commissioner of Revenue is authorized to act as relator in such proceeding; and it shall be the duty of said county attorney to appear and prosecute or assist in the prosecuting of said proceeding in all the courts to which the same may be taken for trial. If there be a judgment assessing said property for taxation, said judgment in each case shall recite whether or not the county attorney was present and assisted in the trial of said proceeding, and when he is so present and assists in said proceeding, he shall be allowed as compensation for his services until the expiration of the present term of office, fifteen per centum (15%) of the amount of said State and County taxes collected pursuant to such judgment, and after the expiration of the present term of office of the county attorneys, he shall be allowed as compensation for his services only ten per centum (10%) of the amount of said taxes assessed and collected pursuant to such judgment. The State and county shall be liable respectively for the payment only of said percentage allowance of compensation to the county attorney on the amount which each collects, and same shall be paid to the county attorney within thirty days after the collection of said taxes, and charged against the fund to which the tax was credited.

4260c. No field agent, accountant or attorney of the Department of Revenue shall be permitted to collect any monies due either the Commonwealth or any county, school district or other taxing district without specific written authority from the Commissioner of Revenue. Should any such field agent, accountant or attorney violate the provisions of this section, he shall be deemed guilty of a misdemeanor; and, upon indictment and conviction in the county in which said acts were done he shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and to removal from office.

4260d-1. In proceedings that may now be pending, or that may hereafter be brought by the Commonwealth, or by

the Commonwealth on relation of some officer authorized to bring such proceeding, wherein it is sought to vacate or set aside any order or judgment of the court assessing for taxes for State, county, school district or other taxing district purposes, any property or omitted property, on the ground of inadequacy of valuation, or on the ground of mistake, or on the ground of fraud, or on any other ground, and wherein it is sought to cause a larger assessment to be adjudged, the Commissioner of Revenue shall have the power and authority to direct the drawing of warrants on the State Treasury to pay from time to time such court costs and reasonable expenses as may be incurred on behalf of the Commonwealth, including the cost of taking and filing depositions and witness' fees, and including payment of official court reporters for services and for a copy of the testimony or depositions.

4261. Field agents, accountants and attorneys of the Department of Revenue shall report to the Commonwealth's attorney, county attorney, or grand jury, when directed to do so by the Commissioner of Revenue, all persons who may be guilty of violating the laws governing income, license, excise, and other taxes, and shall cause said offenders to be prosecuted.

4262. Any field agent, accountant or attorney, when authorized in writing by the Commissioner of Revenue, shall have the right to investigate the accounts, books and records of all officers whose duty it may be to receive or collect money due the Commonwealth, county, school district or other taxing district, and report to the Commissioner of Revenue from time to time, all delinquent officers and the amounts collected by them which they have failed to pay into the Treasury of the State, or into the treasury of the county, school district, or other taxing district; and any such field agent, accountant or attorney, from time to time, shall report to the fiscal court of the county all delinquent officers and the amounts owing by them to the county, if any; and any said field agent, accountant or attorney shall report all amounts which it

was the duty of such officer to have collected and which they have failed to collect, and the person, or persons, owing same. Any field agent, accountant or attorney shall report all excessive charges made by such officer, and also those who have received or retained a greater sum for their services or the service of their deputies than is allowed by law, and all such other facts by which the Commonwealth, county, school district or other taxing district is being unlawfully deprived of any money, and any other facts touching the interest of the Commonwealth, or county, school district and other taxing district as such field agent, accountant or attorney may deem important, or of which the Commissioner of Revenue, county attorney, county judge or fiscal court of the county may require information.

4263. It shall be the duty of the field agent, accountant or attorney, and he shall have authority when directed by the Commissioner of Revenue, to institute suits, motions or proceedings in the name of the Commonwealth, and of any county, school district or other taxing district, on relation of the Commissioner of Revenue, against any delinquent state, county or district officer or any person, firm or corporation to recover any money which may be due the Commonwealth, or any county, school district, or other taxing district, or license taxes due the Commonwealth, or any inheritance taxes due the Commonwealth, or any excise or income taxes due the Commonwealth or any other taxes due the Commonwealth, or any county or school district or other taxing district; and, in all such suits, motions or proceedings in which a judgment is recovered, the party in default shall, in addition to the amount for which he is liable to the Commonwealth or any county or school district or any other taxing district, be adjudged to pay a penalty of twenty per cent (20%) on the amount due the Commonwealth of Kentucky and any county thereof or any taxing district or any school district.

4019a-13. In addition to the penalties provided in the

preceding section, failure to list any note or bond shall be a bar to any action upon the same in any court and may be pleaded as a complete defense, but the holder thereof may at any time pay all taxes, penalties and accrued interest and thereupon be relieved from the defense above provided.

4267. It shall be the duty of the Commissioner of Revenue to prosecute diligently or cause to be prosecuted by field agents, accountants and attorneys employed by him, the collection of all back taxes, license fees, judgments or other monies, claims or demands due the Commonwealth from any corporation, association, firm, company, or individuals, and he shall have the power to direct field agents, accountants and attorneys employed by him to prosecute the collection of all delinquent taxes, taxes on omitted property of delinquents, license fees or omitted license, inheritance, estate, income, excise, or franchise tax of any individual, partnership, company, corporation or association due the State. Should any life insurance company, casualty company, marine insurance, fire insurance, security or indemnity company, be in debt to the Commonwealth for back taxes, or should any of such companies fail to pay into the State Treasury the correct amount of taxes due the State, the Commissioner of Revenue shall cause an investigation to be made of their books and accounts, and employ such expert accountants as he may deem necessary for such work. The expense for such accountants and other expenses of such examination shall be paid by the delinquent companies in addition to the taxes and penalties which may be due and owing by said companies. The expense for such accountants and other expenses of such examination shall be paid by the delinquent companies in addition to the taxes and penalties which may be due and owing by said companies. And the inclusion of the power to the Commissioner of Revenue to investigate or cause to be investigated the books and accounts of those engaged in the business of insurance for the purposes herein set forth shall not be construed as an exclusion of the power to said Commissioner to also in-

vestigate or cause to be investigated the books and accounts of persons, partnerships, associations or corporations engaged in other types of business for the same purpose, and who have failed to pay into the State Treasury the correct amount of tax due the State.

§ 5. Any person, firm, association or corporation that has failed to give its list of taxable property, in whole or in part, because it was not called upon by the County Tax Commissioner, or for any other reason, may at any time, and it is hereby made its duty, after the County Tax Commissioner has returned his books, to list the same with the Department of Revenue of the Commonwealth of Kentucky, by reporting to the Department the full details and correct description of the property so omitted and the value thereof; and the Department of Revenue shall provide appropriate forms and records for entering such assessments in the said Department, and the Department of Revenue shall certify to the county court clerks, sheriffs and tax collectors of the respective school districts and other taxing districts, the proper description and value of the property situated within the respective counties, school districts and other taxing districts, which is so reported and assessed by the Department of Revenue and which is subject to or liable for the payment of taxes to the counties, school districts and other taxing districts. The Department of Revenue hereby is authorized to determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation; and any person dissatisfied with or aggrieved by the finding and the ruling of the Department of Revenue, may appeal from said finding, decision or ruling to the Franklin Circuit Court by filing in the clerk's office of said court a petition of appeal within twenty days of the date of notification of such finding or ruling. The decision of the Franklin Circuit Court may be appealed by the Commonwealth or the taxpayer to the Court of Appeals as provided by the Civil Code of Practice. The

Department of Revenue hereby is authorized to prescribe and promulgate such rules, regulations, forms and records as he may deem necessary and proper for the listing, assessment and certifying of the property so assessed or to be assessed for taxation. Except as hereinafter provided in Section 6, all property listed under this section shall be liable for the payment of the taxes, interest and penalties now or hereafter provided by law, for failure to list said property either with the County Tax Commissioner or other assessment board, commission or authority within the time and in the manner prescribed by law. Provided, however, that if the taxpayer voluntarily lists property under this section, the twenty per cent penalty heretofore provided by law for revenue agents and now provided to be paid to the Department of Revenue, shall not apply, but said penalty shall apply if the taxpayer on an appeal taken from the action of the Department of Revenue, attempts to reduce said assessment and is unsuccessful therein.

§ 6. For a period of four months from the effective date of this Act, any person, firm, co-partnership, association or corporation that has failed to list for taxation any real property, tangible personal property or intangible property, may list same with the Department of Revenue as provided in Section 5 of this Act, and may pay the amount of taxes which would have been due thereon for each of the respective years for which such property was subject to assessment and the payment of taxes plus accrued interest thereon, at the rate of six per cent (6%) per annum from the date the taxes thereon should have been paid had said property been listed as provided by law; and any person, firm, co-partnership, association or corporation so listing said property within four months from the effective date of this Act, shall not be liable or required to pay any penalty thereon provided all taxes and accrued interest thereon as herein provided are paid within thirty days from the date said property is finally assessed by

the Kentucky Tax Commission as provided in Section 5 of this Act.

Nothing contained in this section shall apply to assessments and taxes sought to be had on omitted property embraced in proceedings that have already been instituted for such assessment and taxation prior to the effective date of this Act.

§ 7. One-fourth of the twenty per cent (20%) penalty collected on taxes due the Commonwealth or county, or school district or other taxing district, shall be paid to and retained by the Commonwealth of Kentucky as compensation for the services of the Department of Revenue, its field agents, accountants and attorneys in enforcing the payment of said taxes, and covered into the State Treasury and credited to the General Expenditure Fund. The remaining three-fourths of said twenty per cent penalty collected on taxes due the Commonwealth or any county, school district or other taxing district, shall be covered into the State Treasury and credited to a fund to be designated and known as the "Delinquent Tax Fund," and so much thereof as may be necessary shall be used and applied to the administration and enforcement of the provisions of this Act. All salaries, fees and expenses authorized by this Act, except the fees of county attorneys shall be payable out of said Delinquent Tax Fund upon certifications or requisitions of the Commissioner of Revenue.

§ 8. The provisions of this Act are severable. If any clause, provision, section, paragraph or portion thereof, or if the application of any clause, provision, section, paragraph or portion thereof shall be held unconstitutional or invalid, such decision regarding the clause, provision, section, paragraph or portion thereof shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent that each clause, provision, section, paragraph or portion thereof shall constitute a severable unit.

§ 9. The Commonwealth of Kentucky shall have a lien

superior to all other liens upon all property, real, personal and mixed, tangible and intangible, owned by the taxpayer at the time the property or the taxpayer becomes subject to the tax, for any property tax, license tax, inheritance or estate tax, excise tax or income tax against which no exemptions shall be pleaded.

§ 10. All laws or parts of laws in conflict herewith to the extent of such conflict hereby are repealed.

§ 11. Whereas there is great confusion existing in the law due to the abolition of the offices of Revenue Agent, and whereas there is no adequate means by which the Commonwealth, its counties, school districts or other taxing districts are protected and enabled to assess omitted property and collect delinquent taxes which are daily becoming barred by the Statute of Limitation, and whereas there is now insufficient revenue to meet the needs of the Commonwealth and its agencies, the counties, school districts and other taxing districts, an emergency is hereby declared to exist and this Act shall become a law and be effective immediately upon its passage and approval by the Governor.

Mr. Myers moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Said motion was agreed to.

Mr. Milam moved that said bill be laid on the table.

Dr. Shields moved that said bill be made a Special Order of the Day, for tomorrow at two o'clock p. m.

The Speaker ruled the motion as made by Dr. Shields out of order, there being a previous motion before the House.

The motion as made by Mr. Milam was then disagreed to.

The yeas and nays being taken thereon, were as follows, viz.:

Those who voted in the affirmative were—

Reuben J. Boling	Leslie Larrimore	Wade H. Riley
Dr. R. A. Byers	Robert E. Lee	Ray O. Shehan
Jas. C. Carter	Lloyd MacDonald	P. L. Sidebottom
Herbert Cook	Elmer McGlothen	H. C. Steely
Garland Embry	John Marshall	Henry Stewart
Walter R. Fannin	G. S. Milam	Dr. H. S. Swope
G. W. Garrett	John B. Mollett	R. Van Bever, Jr.
James T. Hamilton	Russell O'Neill	
C. L. Hammons	Hobart Rayburn	

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Those who voted in the negative were—

F. T. Allen	Ben W. Johnson	J. C. Ramey
Douglas Bolling	J. H. Jones	L. K. Rice
Ollie J. Bowen	O. C. Jones	Joe E. Robinson
Wallace Brown	R. T. Kirkman	John C. Robinson
V. O. Chandler	J. F. Ladd	W. T. Rollo
Roscoe Claxon	M. T. McCarthy	A. W. Ross
George S. Clay	T. B. McConnell	Carl Scheben
Roy Conway	J. L. McDermott	Carl Schneider
Sam Dever	W. F. McGary	Dr. B. F. Shields
Stanley S. Dickson	D. T. Matlack	Bruce Sloan
George W. Dunlap	Duke Mayfield	W. R. Tapp
Howard G. Early	W. E. Mull	J. J. Thomas
Ferd A. Gnau	Tyler Munford	S. J. Wagner
W. L. Hampton, Jr.	Rodes K. Myers	Joseph L. Wall
Clyde S. Howard	J. C. Nickell	Henry Ward
Ira W. Hulette	Mel Petry	L. R. Wells
John M. Hunnicut	A. W. Pfeiffer	W. G. Williams

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Resolved that the title thereof be as aforesaid.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Ira W. Hulette	J. C. Ramey
Henry H. Allen	John M. Hunnicut	L. K. Rice
B. F. Bedford	Ben W. Johnson	Joe E. Robinson
Ollie J. Bowen	J. H. Jones	John C. Robinson
Wallace Brown	O. C. Jones	W. T. Rollo
V. O. Chandler	R. T. Kirkman	A. W. Ross
Roscoe Claxon	J. F. Ladd	Carl Scheben
George S. Clay	M. T. McCarthy	Carl Schneider
Roy Conway	T. B. McConnell	Dr. B. F. Shields
Sam Dever	J. L. McDermott	P. L. Sidebottom
Stanley S. Dickson	W. F. McGary	Bruce Sloan
George W. Dunlap	John Marshall	W. R. Tapp
Howard G. Early	D. T. Matlack	J. J. Thomas
T. P. Fitzpatrick	Duke Mayfield	S. J. Wagner
Fred A. Gnau	W. E. Mull	Henry Ward
Ben Grogan	Rodes K. Myers	L. R. Wells
W. L. Hampton, Jr.	J. C. Nickell	W. G. Williams
Price Holbrook	Mel Petry	Charles Wylie
Clyde S. Howard	A. W. Pfeiffer	

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Those who voted in the negative were—

Reuben J. Boling	Jas. T. Hamilton	Tyler Munford
Dr. R. A. Byers	C. L. Hammons	Russell O'Neill
Jas. C. Carter	Thomas W. Hines	Hobart Rayburn
Herbert Cook	Leslie Larrimore	Ray O. Shehan
Garland Embry	Robert E. Lee	H. C. Steely
Walter R. Fannin	Lloyd MacDonald	Henry Stewart
H. Myer Garner	G. S. Milam	Dr. H. S. Swope
G. W. Garrett	John B. Mollett	R. Van Bever, Jr.

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Resolved that the title thereof be as aforesaid.

Mr. Myers moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed a bill which originated in that body, entitled:

S. B. 19. An Act to authorize cities of the second class to maintain and operate water works, etc.

Ordered that said bill be printed and referred to Committee on Kentucky Statutes No. 1.

And that they had passed a bill which originated in this House, entitled:

H. B. 11. An Act to authorize cities of the second class to establish and maintain Junior Colleges, etc.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 10. An Act to amend and re-enact Section 4281i-11 of Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

Said bill is as follows, viz.:

An Act to amend and re-enact Section 4281i-1 of Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Carroll's Kentucky Statutes, Section 4281i-1, be amended and re-enacted so as to read as a whole as follows:

§ 1. DEFINITIONS.

(a) The word "person" as used in this Act includes individuals, co-partnerships, business trusts, joint stock companies, and corporations.

(b) The word "dealer" in this Act includes all persons who are engaged in the sale of motor vehicles at retail.

(c) The term "Department" as used in this Act shall mean the Department of Revenue of the Commonwealth of Kentucky.

(d) "Retail price" shall be determined by the price for which said vehicle with standard equipment sells in the county in which license is applied for (or, if not sold in said county, then in the county nearest said county in which said motor vehicle is sold) by regularly authorized dealers in said motor vehicles if a new car, and if a used car, by the price or value given in the Automotive Reference Manual used by the Department of Revenue.

(e) The words "motor vehicle" as used in this Act shall include all vehicles which are propelled otherwise than by muscular power and which are used for transportation of persons or property over and upon the public highways of the Commonwealth, excepting, however, road rollers, such vehicles as travel exclusively on rails, and such vehicles as are propelled by electric power obtained from overhead wires.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Price Holbrook	J. C. Ramey
C. W. Anderson, Jr.	Ira W. Hulette	Hobart Rayburn
B. F. Bedford	John M. Hunnicut	L. K. Rice
Douglas Bolling	Ben W. Johnson	Joe E. Robinson
Ollie J. Bowen	J. H. Jones	John C. Robinson
Wallace Brown	O. C. Jones	W. T. Rollo
Dr. R. A. Byers	R. T. Kirkman	A. W. Ross
Jas. C. Carter	J. F. Ladd	Carl Scheben
V. O. Chandler	Leslie Larrimore	Carl Schneider
George S. Clay	Robert E. Lee	Ray O. Shehan
Roy Conway	M. T. McCarthy	Dr. B. F. Shields
Harry Davis	T. B. McConnell	Bruce Sloan
Sam Dever	J. L. McDermott	H. C. Steely
Stanley S. Dickson	Lloyd MacDonald	Henry Stewart
George W. Dunlap	W. F. McGary	Dr. H. S. Swope
Garland Embry	John Marshall	W. R. Tapp
Walter R. Fannin	Duke Mayfield	J. J. Thomas
Chas. P. Farnsley	G. S. Milam	R. Van Bever, Jr.
T. P. Fitzpatrick	John B. Mollett	S. J. Wagner
G. W. Garrett	W. E. Mull	Joseph L. Wall
Ferd A. Gnau	Tyler Munford	Henry Ward
Eugene Gough	J. C. Nickell	L. R. Wells
C. L. Hammons	Russell O'Neill	W. G. Williams
W. L. Hampton, Jr.	Mel Petry	Charles Wylie
Thomas W. Hines	A. W. Pfeiffer	—74

Those who voted in the negative were—

Roscoe Claxon Elmer McGlothen —2

Resolved that the title thereof be as aforesaid.

Mr. Farnsley moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 11. An Act to amend and re-enact Section 2739g-1, Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

Said bill is as follows, viz.:

An Act to amend and re-enact Section 2739g-1 of Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Carroll's Kentucky Statutes, Section 2739g-1, be amended and re-enacted so as to read as a whole as follows:

DEFINITIONS.—(a) Whenever and wherever the word "vehicle" is used in this Act, it shall include all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth, and all vehicles passing over or upon said highways, excepting road rollers, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires, while being operated within any municipality or where said vehicles do not travel more than five miles beyond the limit of any municipality, and whenever or wherever the word "automobile" is used, it shall include all vehicles that are propelled otherwise than by muscular power excepting road rollers, such vehicles as travel exclusively on rails, and such vehicles as are propelled by electric power obtained from overhead wires.

(b) Whenever and wherever the word "commission" is used herein, it shall mean the State Tax Commission, and

whenever the word "clerk" is used herein, it shall mean the clerk of a county court.

(c) Whenever and wherever the word "chauffeur" is used herein, it shall mean a person whose business or occupation, in whole or in part, is the operation of an automobile for a compensation, wages or hire.

(d) Whenever and wherever the word "manufacturer" is used herein, it shall mean any individual, partnership, corporation or company engaged in the business or occupation of manufacturing automobiles, who will, under normal conditions during the year, manufacture or assemble as many as ten or more new automobiles.

(e) Whenever and wherever the word "dealer" is used herein, it shall mean any and all persons, partnerships, corporations, companies or agencies engaged in the business of purchasing, selling or distributing automobiles in this Commonwealth.

(f) Whenever and wherever the word "highway" is used herein, it shall mean any and all public highways, roads as passways, no matter of what type of construction, and all boulevards, parkways, streets and public alleys of any and all incorporated cities and towns, as well as the same in unincorporated towns and villages of this Commonwealth.

(g) Whenever and wherever the word "operator" is used herein, it shall mean the person in actual physical control of the guidance, starting and stopping of a vehicle.

(h) Whenever and wherever the words "sharp curve" are used herein, they shall mean a curve of not less than thirty degrees; and whenever and wherever the words "steep grade" are used herein, they shall mean a grade of exceeding seven per cent.

(i) The words "unobstructed highway" when used herein shall mean a straight, level, first class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrain is approaching in the opposite direction, closer than three hundred yards.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at lenth being dispensed with, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Ira W. Hulette	A. W. Pfeiffer
C. W. Anderson, Jr.	John M. Hunnicut	J. C. Ramey
B. F. Bedford	Ben W. Johnson	Hobart Rayburn
Douglas Bolling	J. H. Jones	L. K. Rice
Ollie J. Bowen	O. C. Jones	Wade H. Riley
Wallace Brown	R. T. Kirkman	Joe E. Robinson
V. O. Chandler	J. F. Ladd	John C. Robinson
Roscoe Claxon	Leslie Larrimore	W. T. Rollo
George S. Clay	Robert E. Lee	A. W. Ross
Roy Conway	M. T. McCarthy	Carl Scheben
Harry Davis	T. B. McConnell	Ray O. Shehan
Sam Dever	J. L. McDermott	Dr. B. F. Shields
Garland Embry	Lloyd MacDonald	P. L. Sidebottom
Chas. P. Farnsley	W. F. McGary	Bruce Sloan
T. P. Fitzpatrick	Elmer McGlothen	H. C. Steely
G. W. Garrett	Duke Mayfield	Henry Stewart
Ferd A. Gnau	G. S. Milam	Dr. H. S. Swope
Eugene Gough	John B. Mollett	W. R. Tapp
Jas. T. Hamilton	W. E. Mull	J. J. Thomas
C. L. Hammons	Tyler Munford	R. Van Bever, Jr.
W. L. Hampton, Jr.	Rodes K. Myers	Henry Ward
Thomas W. Hines	J. C. Nickell	L. R. Wells
Price Holbrook	Russell O'Neill	
Clyde S. Howard	Mel Petry	—70

Those who voted in the negative were—

Jas. C. Carter	Herbert Cook	—2

Resolved that the title thereof be as aforesaid.

Mr. Farnsley moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Dr. Shields moved that the Rules of this House be suspended for the purpose of making Committee Reports.

Said motion was agreed to.

Thereupon Mr. Dunlap of the Committee on Kentucky Statutes No. 1 to which the same had been referred, reported a resolution entitled:

S. Res. 10. Resolution seeking permission for Ohio County to construct and relocate a Highway Bridge.

With the expression of opinion that said resolution ought to pass.

Dr. Byers moved that said resolution be taken up for immediate consideration.

Said motion was agreed to.

Thereupon the House took up for immediate consideration said resolution.

Said resolution is as follows, viz.:

S. Res. 10. Whereas, Rough River has been used for a navigation, and

Whereas, It is now being used for navigation purposes and said river is wholly within the State of Kentucky, and

Whereas, under Section 853a-1 of the Kentucky Statutes, it is necessary to obtain the consent of the Secretary of War before any bridge can be constructed over the navigable portions of said river, and

Whereas, Ohio County is desirous of moving a bridge from one location on said river to a location at or near Carters Ferry on said Rough River, this place being six miles from the former location of said bridge, and

Whereas, It is desired by Ohio County that permission of the Secretary of War be given for the construction and erection of said bridge at said place, and

Whereas, the erection of said bridge will in no way obstruct or hinder navigation on said river; Now, Therefore

Be it resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives concurring therein:

§ 1. That the Secretary of War in Washington, D. C., as provided in Section 853a-1 of the Kentucky Statutes, grant permission to Ohio County to construct and relocate a highway bridge at Carters Ferry across Rough River, and that the permission be granted to erect said bridge at said place.

Said resolution was then adopted.

Mr. Dunlap of the Committee on Kentucky Statutes No. 1 to which the same had been previously referred, reported bills and resolutions of the following titles, viz.:

S. B. 19. An Act to amend and re-enact Section 2741 1-25 of the Kentucky Statutes, Carroll's Edition 1936, as amended by Chapter 111 of the Acts of 1932, relating to the purchase of water works by Municipal Corporations.

S. B. 27. An Act to prohibit distribution, sale or exchange of goods, wares and merchandise of prison made goods.

S. Res. 13. Resolution for the benefit of ministers of Frankfort, Kentucky.

S. Res. 14. Resolution providing for furnishing Kentucky Directory.

With the expression of opinion that said bills and resolutions ought to pass.

Said bills and resolution were severally read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 12. An Act to amend and re-enact Section 2739j-42, Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Carroll's Kentucky Statutes, Section 2739j-42, be amended and re-enacted so as to read as a whole as follows:

As used in this Act, unless the context otherwise requires:

(a) "Motor Vehicle" means any motor propelled vehicle, not usually operated over or on rails, or not propelled by electric power obtained from overhead wires, while being operated within any municipality or where said vehicles do not travel more than five miles beyond the limit of any municipality, used for the transportation on the public highways of this State of persons or property for hire, and shall include any such vehicle operated as a unit in combination with another vehicle used for any such purpose;

(b) "Operator" means any person, firm, partnership,

association, joint stock company, corporation, lessee, trustee, or receiver, appointed by any court whatsoever owning, controlling, operating or managing any motor vehicle used for the transportation of persons or property for hire;

(c) "Common Carrier" means any operator of a motor vehicle for hire in common carriage;

(d) "Contract Carrier" means any operator of a motor vehicle for hire other than a common carrier. "Contract carrier" shall not be construed to mean or include any person, firm or corporation who transports only his own property, or who does not engage in the transportation business but makes occassional or casual trips to transport persons or the property of others for hire;

(e) "Public highway" means every public street, alley, road or highway in this State, whether within or without the corporate limits of any municipality;

(f) "Certificate" means the certificate of public convenience and necessity authorized to be issued under the provisions of this Act;

(g) "Permit" means the permit to operate authorized to be issued under the provisions of this Act;

(h) "Commission" means the State Tax Commission of Kentucky.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	B. F. Bedford	Douglas Bolling
C. W. Anderson, Jr.	Reuben J. Boling	Ollie J. Bowen

Wallace Brown	O. C. Jones	L. K. Rice
Dr. R. A. Byers	R. T. Kirkman	Wade H. Riley
Jas. C. Carter	J. F. Ladd	Joe E. Robinson
V. O. Chandler	Leslie Larrimore	W. T. Rollo
Roscoe Claxon	Robert E. Lee	A. W. Ross
George S. Clay	M. T. McCarthy	Carl Scheben
Roy Conway	T. B. McConnell	Ray O. Shehan
Harry Davis	J. L. McDermott	Dr. B. F. Shields
Garland Embry	Lloyd MacDonald	P. L. Sidebottom
Chas. P. Farnsley	W. F. McGary	Bruce Sloan
H. Myer Garner	Elmer McGlothen	H. C. Steely
G. W. Garrett	G. S. Milam	Henry Stewart
Ferd A. Gnau	John B. Mollett	Dr. H. S. Swope
Eugene Gough	W. E. Mull	W. R. Tapp
Jas. T. Hamilton	Tyler Munford	R. Van Bever, Jr.
C. L. Hammons	Rodes K. Myers	S. J. Wagner
W. L. Hampton, Jr.	J. C. Nickell	Joseph L. Wall
Clyde S. Howard	Russell O'Neill	Henry Ward
Ira W. Hulette	Mel Petry	L. R. Wells
John M. Hunnicut	A. W. Pfeiffer	Charles Wylie
Ben W. Johnson	J. C. Ramey	
J. H. Jones	Hobart Rayburn	—70

There voted in the negative—

Herbert Cook —1

Resolved that the title thereof be as aforesaid.

Mr. Farnsley moved that the vote by which said bill was passed be reconsidered, and that said motion lie on the table.

Said last named motion was agreed to.

The Speaker announced the following Standing Committee of this House, viz.:

AGRICULTURE No. 3.

J. F. Ladd, Chairman

Elmer McGlothen	C. S. Howard
Russell O'Neill	Chas. S. Matherly
Garland Embry	J. H. Jones

The Speaker vacated the Chair and designated Mr. Gnau as Speaker pro-tem.

Thereupon Mr. Joe Robinson moved that a Committee of this House be appointed to select and purchase a suitable gift for the Speaker of the House.

Mr. Myers moved that said motion be amended to include Dr. B. F. Shields, Majority Leader and Claude S. Hammons, Minority Leader.

Said amendment was agreed to.

Said motion was then agreed to, as amended.

Thereupon the Speaker pro-tem. appointed Messrs. Joe Robinson, Myers, Farnsley, Bowen and Schneider as members constituting said Committee.

Mr. Joe Robinson moved that the House do now adjourn to meet again at eleven o'clock a. m. on tomorrow.

Said motion was agreed to.

And then the House adjourned.

FRIDAY, JANUARY 15, 1937.

The House was opened with prayer by the Reverend R. B. Kelly of the Church of the Nazarene of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Jas. T. Hamilton	Mel Petry
Henry H. Allen	C. L. Hammons	A. W. Pfeiffer
C. W. Anderson, Jr.	W. L. Hampton, Jr.	J. C. Ramey
H. T. Baker	Thomas W. Hines	Hobart Rayburn
W. T. Baker	Price Holbrook	Harry C. Records
B. F. Bedford	Clyde S. Howard	L. K. Rice
Reuben J. Boling	Ira W. Hulette	Wade H. Riley
Douglas Bolling	John M. Hunnicut	Joe E. Robinson
Ollie J. Bowen	Ben W. Johnson	John C. Robinson
Wallace Brown	J. H. Jones	W. T. Rollo
Dr. R. A. Byers	O. C. Jones	A. W. Ross
Jas. C. Carter	R. T. Kirkman	Carl Scheben
V. O. Chandler	J. F. Ladd	Carl Schneider
Floyd Clark	Leslie Larrimore	Ray O. Shehan
Roscoe Claxon	T. B. McConnell	Dr. B. F. Shields
George S. Clay	J. L. McDermott	P. L. Sidebottom
Roy Conway	Lloyd MacDonald	Chester D. Silvers
Herbert Cook	W. F. McGary	Bruce Sloan
Harry Davis	Elmer McGlothen	H. C. Steely
Sam Dever	John Marshall	Henry Stewart
Stanley S. Dickson	D. T. Matlack	Dr. H. S. Swope
George W. Dunlap	Duke Mayfield	W. R. Tapp
Howard G. Early	G. S. Milam	J. J. Thomas
Garland Embry	W. H. Miller	R. Van Bever, Jr.
Walter R. Fannin	John B. Mollett	S. J. Wagner
T. P. Fitzpatrick	W. E. Mull	Joseph L. Wall
H. Myer Garner	Tyler Munford	Henry Ward
G. W. Garrett	Rodes K. Myers	L. R. Wells
Eugene Gough	J. C. Nickell	Charles Wylie
Ben Grogan	Russell O'Neill	John Kirtley, Spkr.

Mr. Davis moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Ward moved that the privilege of the floor be extended to Reverend W. O. Parr of Paducah and Messrs. R. W. Hagan, Thomas Graham, C. R. Walton, Joe Martin and J. G. Sawyer.

Said motion was agreed to.

Mr. Silvers moved that the privilege of the floor be extended to Mr. Wells of Lexington, Kentucky.

Said motion was agreed to.

Mr. W. T. Baker moved that the privilege of the floor be extended to Mr. Porter Ransdall.

Said motion was agreed to.

Mr. Wylie moved that the privilege of the floor be extended to Mr. Arnold Likins.

Said motion was agreed to.

Mr. Brown moved that the privilege of the floor be extended to Miss Mary Bell Price, Mattie Scott Miller.

A message was received from the Senate announcing that they had passed a bill which originated in this House entitled:

H. B. 14. An Act authorizing refund of taxes paid under provisions of Chapter 149 of the Acts of the General Assembly of 1930 by the Auditor of Public Accounts upon the filing of claims, etc.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

And that they had passed a resolution which originated in that body, entitled:

S. Res. 16. Resolution of appreciation to Irvine Wood, Representative of the Federal Social Security Board.

Said resolution is as follows, viz.:

Be it resolved by the Senate, the House concurring therein, that the members of this Legislature appreciate the intelligent and faithful service rendered to it by Irvine Wood, Representative of the Federal Social Security Board, who appeared before it and aided and assisted in the drafting of the legislation hereto approved.

Resolved that a copy of this resolution be sent to the said Irvine Wood.

Said resolution was then concurred in by the House.

Mr. Scheben moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. Sidebottom moved that a bill entitled:

S. B. 22. An Act to provide for the supervision and regulation of the production, sale, marketing and distribution of tobacco.

Be made a Special Order of the Day, for today at two o'clock p. m.

Said motion was agreed to.

Mr. Sidebottom moved that the Rules of this House be suspended for the purpose of proceeding to the consideration of the Orders of the Day .

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills and resolutions of the following titles, viz.:

S. B. 19. An Act to amend and re-enact Section 2741 1-25, of the Kentucky Statutes, Carroll's Edition, 1936, as amended by Chapter 111 of the Acts of 1932, relating to the purchase of water works by Municipal Corporations.

S. B. 27. An Act to prohibit distribution, sale or exchange of goods, wares and merchandise of prison made goods.

S. Res. 13. Resolution for the benefit of ministers of Frankfort, Kentucky.

S. Res. 14. Resolution providing for the furnishing of Kentucky Directories.

Ordered that said bills and resolutions be read the second time.

The constitutional provision as to the second reading of said bills at length being dispensed with, said bills and resolutions were read the second time by their titles only.

Ordered that said bills and resolutions be placed in the Orders of the Day.

The following message was received from the Governor, viz.:

PROCLAMATION

Whereas, in the light of evidence now available, Item 7 in the Governor's proclamation of December 23, 1936, convening the General Assembly was so formulated that it may in an unconstitutional manner restrict the scope of legislation which the General Assembly may consider:

Now Therefore, in order that the General Assembly may enact suitable legislation providing for the sale of real property, according to the power vested in me by the Constitution of Kentucky, I do issue this my proclamation amending and restating Item 7 in my proclamation convening the General Assembly of Kentucky in extraordinary session at the seat of government in Frankfort, Kentucky, at one o'clock p. m., on Wednesday, December 23, 1936, to read as follows:

7. To pass an act authorizing a commission to purchase and sell real estate owned by the Commonwealth of Kentucky according to terms, conditions and procedures to be prescribed by the said act.

Given under my hand this the 14th day of January, 1937.

By the Governor:

A. B. CHANDLER
Governor of Kentucky

(Seal)
CHAS. D. ARNETT
Secretary of State

Which was read at length by the Chief Clerk before the House.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 21. An Act relating to the use of funds held by counties under the terms of Section 14, Chapter 25 of the Acts of the General Assembly, Special Session of 1934.

Mr. O'Neill moved that said bill be made a Special Order for today at one-thirty o'clock p. m.

Said motion was agreed to.

Mr. Rayburn moved that Mr. Nat Sewell, State Inspector and Examiner, be invited to appear before the House at one-thirty o'clock p. m., to discuss the merits of said bill.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 13. An Act relating to the sale and purchase of real estate by the Commonwealth of Kentucky; providing that the Governor, Secretary of State, State Treasurer, Auditor of Public Accounts, and the Attorney General shall be members of and constitute the Kentucky Real Estate Board, prescribing the powers and duties of said Board, providing that the Secretary of the Governor's Cabinet shall act ex-officio as secretary of said Board; providing the manner, terms and conditions under which real estate belonging to the Commonwealth of Kentucky or any corporate agency of the Commonwealth of Kentucky may be sold and conveyed; authorizing and providing for the purchase of real estate for and on behalf of the Commonwealth of Kentucky; providing for the collection of the purchase money and the reinvestment of same; and appropriating and providing for the expenditure of the funds derived from the sale of real estate sold by the Commonwealth; and declaring an emergency.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That—

§ 1. The Governor of the Commonwealth of Kentucky,

the Secretary of State, State Treasurer, Auditor of Public Accounts and the Attorney General, acting ex officio shall constitute the Kentucky Real Estate Board, and the Secretary of the Governor's cabinet shall ex officio act as secretary of said Board. The members of said Board and said secretary shall perform the duties prescribed by this Act without additional compensation, but shall be allowed and paid out of funds made available by the provisions of this Act their actual and necessary traveling expenses, including hotel bills, while engaged in the performance of their duties imposed by this Act.

The Governor shall be Chairman of said Board and preside at all of its meetings. The Governor and any two members of said board shall constitute a quorum for the transaction of any and all business. The Governor shall call all meetings of said Board by giving reasonable notice of the time and place of meeting to each member of said Board. The Secretary of the Governor's Cabinet, acting ex officio as secretary of said Board, shall attend all meetings of said Board and keep the minutes of all actions and proceedings of said Board. In case of the absence or disability of said secretary, the Governor may designate some member of the Board to act as secretary of said Board and perform the duties thereof during the absence or disability of said secretary.

§ 2. The Kentucky Real Estate Board shall have the power, and it shall be the duty of said Board acting for and on behalf of the Commonwealth of Kentucky, to sell all real estate belonging to the Commonwealth of Kentucky or to any corporate agency of the Commonwealth of Kentucky, determined by said Board not to be needed for public use or which, in the judgment of the Board, has become unsuited for further public use.

§ 3. No real estate belonging to the Commonwealth of Kentucky or to any corporate agency of the Commonwealth of Kentucky shall be sold under the provisions of this Act until same shall have been advertised for sale not less than

once a week for at least three weeks next prior to the date of sale in a newspaper published in the county wherein the real estate proposed to be sold is located, and also in the newspaper having the largest circulation in Kentucky. The Board may, in addition to the advertising herein prescribed, require and provide for such further advertising, by printed handbills or otherwise, as in the discretion of the Board may seem prudent and best. Each advertisement shall contain a full description of the property to be sold and the terms and conditions of sale, together with the time and place of such sale. Said Kentucky Real Estate Board shall sell all such property to the highest and best bidder, and the Board shall determine whether or not the property shall be sold at public auction or outcry or whether the Board will receive sealed bids for the purchase of the property. If the Board in any case determine to receive sealed bids for the purchase of the property, the advertisements shall so state and shall further state the day, the time and the place that said bids will be publicly opened and read. Said Board shall have the right and privilege of rejecting any and all bids, whether the bids be made at public auction or public outcry or by written, sealed bids.

If all bids are rejected, said Board may readvertise said property as herein set out, and after so readvertising said property, may sell same to the highest and best bidder or again reject all bids as the Board may determine to be for the best interest of the Commonwealth.

§ 4. Before any real estate is advertised for sale under the provisions of this Act, the Board shall determine the terms, other than the price, and said terms shall be stated in the advertisements of sale, provided, however, that the Board shall in each instance require that the purchaser pay at least one-fourth of the purchase price in cash on the day of sale, and that any deferred payments shall be secured by the lien on the property sold, which lien shall be expressly retained in the deed executed and delivered to the purchaser; provided

further that any deferred payments shall be evidenced by written promissory notes to be executed and delivered by the purchaser to said Board prior to the execution and delivery of the deed to the purchaser. Said notes shall bear interest from date of sale at the rate of 6% per annum until paid, and shall become due and payable at the time or times specified by said Board in the advertisements of sale, not longer, however, than two years from the date of sale. The purchaser shall be given the privilege of paying said notes at any time, by paying the principal amount thereof plus accrued interest to the date of payment. All notes executed and delivered to said Board for the deferred consideration of the sale of any property sold by said Board, shall be made payable to the Treasurer of the Commonwealth of Kentucky and said Board shall forthwith deliver or cause said notes to be delivered to the State Treasurer, who shall be liable on his official bond for the safe custody of said notes and for receiving, safely keeping and properly accounting for all payments made on such notes. All payments made on the purchase price, including the deferred consideration, of any sales made by said Board shall be covered into the State Treasury through the Department of Finance, and same shall be certified prior to the first Monday in January, 1940, to the Auditor of Public Accounts so that his records and receipts will be complete.

Said Board shall have the power to sell, transfer and assign at par plus accrued interest, any and all notes executed and delivered for the purchase price and deferred consideration of sale of any real estate, and if and when any such notes are so sold, the proceeds thereof shall be covered into the State Treasury through the Department of Finance as hereinabove provided for other funds collected under the provisions of this Act, and same shall be certified prior to the first Monday in August, 1940, to the Auditor of Public Accounts so that his records of receipts will be complete.

§ 5. When any real estate is sold as in this Act provid-

ed the Board shall cause a proper deed or deeds of conveyance from the Commonwealth of Kentucky to the purchaser to be executed and delivered. Each such deed shall be executed in the name of the Commonwealth of Kentucky as grantor and signed—Commonwealth of Kentucky by the Governor of the Commonwealth of Kentucky, and attested and the Great Seal of the Commonwealth affixed thereto by the Secretary of State. Each such deed shall convey the property with covenant of general warranty, subject only to any lien which may be reserved to secure the payment of any deferred consideration, unless the advertisement for sale shall specifically state that conveyance will be by deed of quit claim or by deed of special warranty, in which event a deed shall be executed in accordance with the terms set out in the notice of sale.

In the event a lien is retained in any deed executed and delivered by the Commonwealth as herein provided, to secure the payment of any deferred consideration and the notes evidencing such deferred consideration are sold as in this Act provided, then the Board will cause to be executed and delivered a proper instrument showing such sale and the transfer or assignment of such lien, which instrument shall be signed and executed in the name of the Commonwealth of Kentucky by the Governor and Secretary of State as hereinabove provided for the execution of deeds.

All monies collected from the sale of real estate, including payments on notes and proceeds from the sale of notes evidencing deferred consideration, as in this Act provided hereby is appropriated and placed to the credit of a special fund to be set up and known as the "Public Property Fund."

§ 6. The Kentucky Real Estate Board hereby is empowered to purchase any real estate that it may deem necessary to carry on the power functions of government for any department of government, and is further empowered to erect or cause to be erected any improvements, or to repair or

cause to be repaired any buildings located on any property so purchased or that may now be owned by the Commonwealth of Kentucky, and hereby is empowered to expend any of the monies collected or derived from the sale of real estate as set out in this Act for said purchase of real estate for and on behalf of the Commonwealth of Kentucky, or to erect any improvements on any real estate that is owned or which may be purchased hereafter, or to repair any buildings on any real estate purchased or which may be purchased hereafter or which is now owned by the Commonwealth of Kentucky; and every requisition for disbursements of any of the monies set up in the fund as herein set out, must be approved by the said Board and by the Commissioner of Finance prior to the issuance of any warrants on the State Treasury by the Auditor of Public Accounts, which is payable out of said fund.

§ 7. The Commonwealth of Kentucky is now contemplating the change in location of its penitentiaries, reformatories, and other charitable and eleemosynary institutions and whereas the Federal Government has made a grant to the Commonwealth of Kentucky, of a sum of money to assist in building new and modern institutions, and whereas the institutions now owned by the Commonwealth of Kentucky will be unfit and are not properly located to carry out the program of the Commonwealth of Kentucky and the Federal Government in this change as is contemplated, to better the conditions in said institutions, and whereas the new property upon which said buildings are to be located must be purchased at once in order to take advantage of the Federal grant, and whereas it will be necessary to immediately sell the old property and apply the proceeds of the sale upon the purchase and construction of new property for this purpose, there is hereby declared an emergency to exist and this Act shall become effective immediately after it is passed and approved by the Governor. Provided that all provisions of this Act shall automatically expire January 3, 1940.

All laws or parts of laws in conflict herewith are hereby repealed in so far as same conflict herewith.

Mr. Myers moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Myers moved that the House agree that debate on said bill be limited to thirty minutes for the proponents and thirty minutes for the opponents.

Said motion was agreed to.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Sam Dever	Ben W. Johnson
Henry H. Allen	Stanley S. Dickson	O. C. Jones
W. T. Baker	George W. Dunlap	R. T. Kirkman
B. F. Bedford	Eugene Gough	J. F. Ladd
Douglas Bolling	Ben Grogan	T. B. McConnell
Ollie J. Bowen	W. L. Hampton, Jr.	J. L. McDermott
Wallace Brown	Price Holbrook	W. F. McGary
V. O. Chandler	Clyde S. Howard	Elmer McGlothen
Roy Conway	Ira W. Hulette	John Marshall
Herbert Cook	John M. Hunnicut	C. S. Matherly

D. T. Matlack	L. K. Rice	Dr. B. F. Shields
Duke Mayfield	Wade H. Riley	Bruce Sloan
W. E. Mull	Joe E. Robinson	W. R. Tapp
Rodes K. Myers	John C. Robinson	J. J. Thomas
J. C. Nickell	W. T. Rollo	S. J. Wagner
Mel Petry	A. W. Ross	Joseph L. Wall
J. C. Ramey	Carl Scheben	L. R. Wells
Harry C. Records	Carl Schneider	John Kirtley, Spkr.

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Those who voted in the negative were—

C. W. Anderson, Jr.	Jas. T. Hamilton	Hobart Rayburn
Reuben J. Boling	C. L. Hammons	Ray O. Shehan
Dr. R. A. Byers	Thomas W. Hines	P. L. Sidebottom
Roscoe Claxon	J. H. Jones	Chester D. Silvers
George S. Clay	Leslie Larrimore	H. C. Steely
Harry Davis	Lloyd MacDonald	Henry Stewart
Howard G. Early	G. S. Milam	Dr. H. S. Swope
Garland Embry	John B. Mollett	R. Van Bever, Jr.
Walter R. Fannin	Tyler Munford	Henry Ward
H. Myer Garner	Russell O'Neill	W. G. Williams
G. W. Garrett	A. W. Pfeiffer	Charles Wylie

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Resolved that the title thereof be as aforesaid.

Dr. Shields moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a resolution entitled:

S. Res. 11. Resolution providing for extra compensation for the employees of the General Assembly.

Said resolution is as follows, viz.:

Whereas, the present employees and officers of

the General Assembly have rendered faithful service in both day and night sessions of the General Assembly, meeting in special session, during the year 1936-1937.

Whereas, the General Assembly, in view of the services rendered, deems the compensation allowed by law as provided for in Senate Bill No. 314 of the Acts of the General Assembly of 1936, inadequate, now therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

(1) That there is hereby appropriated from the Legislative Session Fund as additional compensation, for the employees and officers of the Senate and the House of Representatives, to that compensation provided in Senate Bill No. 314 of the Acts of the General Assembly of 1936, the sum of $8,659.00.

(2) That the Chief Clerk of the Senate shall requisition and the Commissioner of Finance shall approve, and the Auditor of Public Accounts shall draw a warrant, for the sum of $4,446.00 on the Treasury of the Commonwealth of Kentucky in favor of the Chief Clerk of the Senate. Such Chief Clerk shall forthwith distribute to the employees and officers of the Senate such funds on the basis of the number of days that such employees and officers served during the special session of the General Assembly in the year 1936-1937, the rate per day to be computed by said Chief Clerk and the presiding officer of the Senate on a pro rata basis of the amounts authorized to be paid them by Senate Bill No. 314 of the Acts of the General Assembly of 1936.

(3) The Chief Clerk of the House of Representatives shall requisition and the Commissioner of Finance shall approve, and the Auditor of Public Accounts shall draw a warrant, for the sum of $4,213.00 on the Treasury of the Commonwealth of Kentucky in favor of the Chief Clerk of the House of Representatives. Such Chief Clerk shall forthwith distribute to the employees and officers of the House of Rep-

resentatives such funds on the basis of the number of days that such employees and officers served during the special session of the General Assembly in the year 1936-1937, the rate per day to be computed by said Chief Clerk and the presiding officer of the House of Representatives on a pro rate basis of the amounts authorized to be paid them by Senate Bill No. 314 of the Acts of the General Assembly of 1936.

(4) All acts or parts of acts in conflict herewith to the extent of such conflict are hereby repealed.

(5) Whereas, the General Assembly will within a short time adjourn and the employees and officers will depart to various sections of the State, an emergency is hereby declared to exist, and this resolution shall be effective from and after its passage and approval by the Governor of the Commonwealth of Kentucky.

Ordered that said resolution be read the third time.

The constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its titly only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	Floyd Clark	Price Holbrook
Henry H. Allen	Roscoe Claxon	Ira W. Hulette
C. W. Anderson, Jr.	Roy Conway	John M. Hunnicut
W. T. Baker	Herbert Cook	Ben W. Johnson
B. F. Bedford	Sam Dever	J. H. Jones
Douglas Bolling	Walter R. Fannin	O. C. Jones
Ollie J. Bowen	T. P. Fitzpatrick	J. F. Ladd
Wallace Brown	H. Myer Garner	Leslie Larrimore
Jas. C. Carter	C. L. Hammons	T. B. McConnell
V. O. Chandler	Thomas W. Hines	J. L. McDermott

Lloyd MacDonald	Russell O'Neill	P. L. Sidebottom
W. F. McGary	Mel Petry	Chester D. Silvers
Elmer McGlothen	A. W. Pfeiffer	Bruce Sloan
John Marshall	J. C. Ramey	Henry Stewart
D. T. Matlack	Harry C. Records	Dr. H. S. Swope
Duke Mayfield	L. K. Rice	W. R. Tapp
G. S. Milam	Wade H. Riley	J. J. Thomas
W. H. Miller	W. T. Rollo	R. Van Bever, Jr.
John B. Mollett	A. W. Ross	S. J. Wagner
W. E. Mull	Carl Scheben	Joseph L. Wall
Rodes K. Myers	Carl Schneider	Henry Ward
J. C. Nickell	Ray O. Shehan	Charles Wylie

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Resolved that the title thereof be as aforesaid.

Mr. Hunnicutt moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had concurred in a resolution which originated in this House entitled:

H. Res. 19. Resolution for the benefit of Mrs. Dora Evans, mother of the late Clarence Evans.

And that they had passed a bill which originated in this House, entitled:

H. B. 22. An Act relating to the office of sheriff, providing additional duties, etc.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Dr. Shields moved that the House do now recess until two-thirty o'clock p. m.

Said motion was agreed to.

And then the House recessed.

The hour of two-thirty o'clock p. m. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Thomas moved that the privilege of the floor be extended to Messrs. Joe Thompson, Ollie Craycroft, Ben Wells, and Tibbs Goodpaster.

Mr. Carter moved that the privilege of the floor be extended to Judge Martin.

Mr. Gough moved that the privilege of the floor be extended to Judge L. K. Woods.

Said motions were unanimously agreed to.

Mr. Dickson of the Committee on Enrollment, reported that they had examined and found to be correctly enrolled, resolutions and bills of the following titles, viz.:

S. Res. 11. Resolution for the benefit of the employees of the House and Senate.

S. Res. 10. Resolution seeking permission for Ohio County to construct and relocate a Highway Bridge.

S. B. 5. An Act to authorize the organization of rural electrification cooperative associations, etc.

H. B. 11. An Act to authorize cities of the second class to establish and maintain Junior Colleges, etc.

Thereupon all other business was suspended, said bills and resolutions were read and compared in open session and found to be correctly enrolled, and thereupon, the Speaker in open session and in the presence of the House, affixed his signature thereto.

Ordered that said bills and resolution which originated in the Senate, be delivered to the Enrolling Clerk of the Senate.

Ordered that the Enrolling Clerk of this House deliver said bill which originated in the House to the Senate.

After a time the Enrolling Clerk delivered the original and enrolled copies of said bill duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 21. An Act relating to the use of funds held by counties under the terms of Section 14, Chapter 25 of the Acts of the General Assembly, Special Session of 1934.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The fiscal courts in all counties which have funds distributed under the terms of Section 14 of Chapter 25 of the Acts

of the General Assembly, Special Session 1934, are hereby authorized and empowered to transfer and use said funds:

(a) By transferring said fund to a "Special Road and Bridge Fund" to be expended for construction, acquisition and maintenance of county roads and bridges.

Be it provided, however, that this authorization shall not apply to the fiscal court of any county in default on either principal or interest on funded indebtedness.

All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Whereas, certain counties of the Commonwealth are required by the statutes now in effect to pay substantial sums in interest charges and at the same time carry ear-marked balances without collecting interest thereon an emergency is declared to exist and this Act shall become a law and become effective on its approval by the Governor.

Mr. Nat Sewell, State Inspector and Examiner and Senator Tackett appeared before the House and explained the provisions of said bill.

Mr. Myers offered the following amendment to said bill, viz.:

Amend S. B. 21 by adding after the word "indebtedness" the following words:

"or to any fiscal court of any county the annual budget of which does not allocate sufficient money for the payment of all interest and sinking fund requirements on any bonds issued by said county or the annual levy for sinking fund purposes is not sufficient to amortize its bonded indebtedness at its due date."

Mr. O'Neill moved that said amendment be laid on the table.

Said motion was disagreed to.

Said amendment was then agreed to.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	C. L. Hammons	J. C. Nickell
Henry H. Allen	Thomas W. Hines	Mel Petry
W. T. Baker	Price Holbrook	A. W. Pfeiffer
B. F. Bedford	Clyde S. Howard	Hobart Rayburn
Reuben J. Boling	Ira W. Hulette	L. K. Rice
Douglas Bolling	John M. Hunnicut	Wade H. Riley
Ollie J. Bowen	O. C. Jones	W. T. Rollo
Wallace Brown	J. F. Ladd	A. W. Ross
Dr. R. A. Byers	Leslie Larrimore	Carl Scheben
Jas. C. Carter	T. B. McConnell	Ray O. Shehan
V. O. Chandler	J L. McDermott	Dr. B. F. Shields
Floyd Clark	Lloyd MacDonald	P. L. Sidebottom
Roy Conway	W. F. McGary	Bruce Sloan
Herbert Cook	Elmer McGlothen	H. C. Steely
Harry Davis	John Marshall	Henry Stewart
Sam Dever	C. S. Matherly	W. R. Tapp
Garland Embry	D. T. Matlack	J. J. Thomas
Walter R. Fannin	W. H. Miller	E. Van Bever, Jr.
T. P. Fitzpatrick	John B. Mollett	S. J. Wagner
H. Myer Garner	W. E. Mull	Joseph L. Wall
G. W. Garrett	Tyler Munford	W. G. Williams
Jas. T. Hamilton	Rodes K. Myers	Charles Wylie

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Those who voted in the negative were—

Roscoe Claxon	R. T. Kirkman	John C. Robinson
George S. Clay	M. T. McCarthy	Henry Ward
Eugene Gough	Russell O'Neill	L. R. Wells
W. L. Hampton, Jr.	J. C. Ramey	
Ben W. Johnson	Joe E. Robinson	—13

Resolved that the title thereof be as aforesaid.

Dr. Shields moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 22. An Act for the supervision and regulation of the production, sale, marketing and distribution of tobacco; to create a tobacco commission and provide for local tobacco committeemen and other agencies and employees and to define and to provide for their functions, duties and powers; to provide for the appointment, compensation, costs and expenses of said commission and of committeemen agencies and employees thereof; to provide for the raising of funds for the administration of this Act and for the disposition of the revenue hereunder; to provide a fund to compensate tobacco producers for crop failures and losses from fire; to impose penalties for violation of this Act; and to provide for the establishment of a compact or compacts between this State and certain other States for the purpose of uniformly regulating and controlling the production of, and commerce in, tobacco in this State and each of such States.

WHEREAS, the production and distribution of tobacco is an industry upon which, to a large extent, the prosperity

and well-being of the people of the State depend; and the well-being of the producers of tobacco depends upon the maintenance of a purchasing power for tobacco comparable with the purchasing power of other agricultural commodities, and unless such purchasing power is maintained the reduced power of tobacco producers to purchase industrial products seriously impairs the assets supporting the credit structure of this State and of local subdivisions thereof; and,

WHEREAS weather and disease affecting the growing of tobacco and losses from fire make it desirable to protect producers whose tobacco crops are adversely affected thereby; and,

WHEREAS in order to protect the well-being of the people of the State and to promote the general welfare and general prosperity of the State the production, sale, marketing and distribution of tobacco in the State are hereby declared to be a business affected with a public interest which should be supervised and regulated in the exercise of the police power of the State in the manner hereinafter provided; Now, Therefore,

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the State of Kentucky:

§ 1. As used in this Act, unless otherwise stated or unless the context or subject matter clearly indicates otherwise:

"Person" means any individual, partnership, firm, joint-stock, company, corporation, association, trust, estate, or any agency of the State or Federal Government.

"Similar Act" means an act of another State containing provisions substantially the same as this Act, except that the omission of provisions requiring the establishment of acreage quotas for individual farms shall not be deemed a substantial variation from this Act.

"Kind of Tobacco" means one or more types of tobacco as classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as listed below according to the name or names by which known:

Types 11, 12, 13 and 14, known as flue-cured tobacco.

Type 31, known as Burley tobacco.

Types 21, 22, 23, 24, 35, 36 and 37, known as fire-cured and dark air-cured tobacco.

"Crop year" means the period from March 1 of one year to February 28 of the succeeding year, both dates inclusive.

"Surplus tobacco" means the quantity of tobacco marketed from the crop produced on a farm in any crop year in excess of the marketing quota for such farm for such year.

"Buyer or handler" means any person who buys tobacco from the producer thereof, or who sells tobacco for the producer thereof, and pays the producer for such tobacco, or who redries or otherwise processes tobacco for the producer thereof prior to the sale of such tobacco by the producer, or any producer who markets tobacco produced by him directly to the consumer.

"Dealer" means any person who buys and resells tobacco prior to the redrying, conditioning, or processing thereof.

"Producer" means any person who has the right during any year to sell, or to receive a share of the proceeds derived from the sale of, tobacco produced by him or on land owned or leased by him.

"Operator" means any person who, as owner-operator, or as cash rent, standing rent, or share rent tenant, operates a farm (i. e., a tract or tracts of land operated as a unit with the same machinery and other equipment) on which tobacco is produced, and includes a share-cropper who operates a farm if the owner-operator or tenant does not provide for the obtaining of marketing certificates with respect to the tobacco crop of the farm.

"District" means certain counties grouped together geographically and having respectively bases established under the Agricultural Adjustment Administration of the U. S. Department of Agriculture of all types of tobacco of approximately the same poundage. There shall be in Kentucky six districts—district number *one* having the said counties of Fulton, Hickman, Carlisle, Ballard, McCracken, Livingston, Marshall, Calloway, Graves, Trigg, Lyon, Christian, Caldwell, Hopkins, Crittenden, Webster and Union; district number *two* having the said counties of Henderson, McLean, Muhlenberg, Todd, Logan, Simpson, Butler, Ohio, Hancock, Daviess, Warren; district number *three* having the said counties of Breckinridge, Grayson, Edmonson, Allen, Monroe, Cumberland, Clinton, Russell, Adair, Metcalfe, Barren, Hart, Green, Taylor, Casey, Marion, Larue, Hardin, Meade, Bullitt, Nelson, Washington and Anderson; district number *four* having the said counties of Fayette, Clark, Jessamine, Boyle, Mercer, Woodford, Scott and Bourbon; district number *five* having the said counties of Jefferson, Spencer, Oldham, Shelby, Franklin, Henry, Trimble, Carroll, Owen, Harrison, Bracken, Pendleton, Grant, Gallatin, Boone, Kenton and Campbell; district number *six* having the said counties of Mason, Robertson, Nicholas, Lewis, Fleming, Greenup, Carter, Rowan, Bath, Montgomery, Menifee, Powell, Estill, Madison, Garrard, Lincoln, Pulaski, Wayne, Whitley, Laurel, Rockcastle, Jackson, Clay, Knox, Letcher, Perry, Breathitt, Owsley, Lee, Wolfe, Magoffin, Floyd, Johnson, Lawrence, Elliott and Morgan.

§ 2. There is hereby created a commission to be known as the Kentucky Tobacco Commission (hereinafter referred to as the "Commission"). The Commission shall consist of seven (7) members selected as follows: Except for the year 1937, the Director of the State Agricultural Extension Service shall arrange for a meeting of tobacco growers in each county (any county in which there are less than 100 tobacco produc-

ers shall be grouped with another adjoining county) at which three (3) tobacco producers shall be elected by the producers attending the meeting to serve as county committeemen for one crop year. The Director of the State Agricultural Extension Service shall arrange for a meeting of the County Committeemen elected in each district, at which meeting the county committeemen in each district shall nominate from among tobacco producers in their respective district, three (3) persons to serve as district committeemen. For the year 1937 such district nominees shall be selected by the County Soil Conservation Committeemen at a meeting called by the Director of the State Agricultural Extension Service. From the three (3) district committeemen nominated in each district the Governor shall appoint one producer to serve for a period of one crop year as a member of the Commission. The Director of the State Agricultural Extension Service shall serve, or shall appoint one member of his staff to serve, as a member of the Commission. Vacancies on the Commission during any crop year shall be filled by the Governor by the appointment of another of the said district nominees for the remainder of such year from the district in which the vacancy occurs, provided that the Director of the State Agricultural Extension Service shall fill the vacancy in the case of the member of the Commission appointed by him. At the end of each crop year the tobacco commission shall be selected for the succeeding crop year in the manner provided above. Each member of the Commission not already in the employment of the State shall be paid the sum of ten dollars ($10) for each day actually spent in the performance of his duties and shall be reimbursed for subsistence not exceeding five dollars ($5) per day and for necessary travel expenses.

§ 3. The Governor is authorized and directed to negotiate and enter into a compact with respect to any kind of tobacco with the Governor of each of the States producing such kind of tobacco, provided (1) that such compact shall not

become effective until it has been entered into by the States of North Carolina, Virginia, South Carolina, and Georgia, in the case of flue-cured tobacco; by the States of North Carolina, Virginia, Indiana, Ohio and Tennessee in the case of Burley tobacco for the year 1937 and for North Carolina, Virginia, Missouri, and West Virginia, for the year 1938, and by the States of Virginia and Tennessee in the case of fire-cured and dark air-cured tobacco; (2) that such compact shall not become effective during any crop year unless entered into prior to the first day of such crop year, and (3) that any provisions in such compact which relate to the establishment of tobacco acreage quotas as provided herein shall not become effective unless and until the consent of the Congress of the United States shall be given to a compact or compacts providing for the establishment of tobacco acreage quotas. This Act shall become effective with respect to any kind of tobacco upon the establishment of a compact with respect to such kind of tobacco and shall become ineffective upon the withdrawal from such compact by any State required as a party thereto. If an injunction issued by a court of competent jurisdiction against the enforcement of a similar act of any State is made permanent so as to stop the administration of said act in such State during any crop year, the enforcement of this act may be suspended by the Commission with respect to the kind of tobacco covered by such compact, until such time as the compact is again made effective or the injunction dissolved, as the case may be. Upon the filing with the Commission of a petition or petitions by 15 per cent or more of the producers of any kind of tobacco in this State requesting that this Act be made ineffective with respect to such kind of tobacco, the Commission shall conduct a referendum within sixty days after the receipt of such petition or petitions to determine whether the producers of such kind of tobacco in the State are in favor of the continuation of this Act, and if the Commission finds that one-third or more of the producers who vote in the

referendum are not in favor of the continuation of the Act, such finding of the Commission shall be certified to the Governor, who shall proclaim the Act ineffective for the crop year next succeeding the crop year in which the referendum is conducted.

§ 4. The Commission shall meet and cooperate with the tobacco commission of other states that are parties to a compact, and any persons designated by the Secretary of Agriculture of the United States to serve in an advisory capacity, for the purpose of making certain determinations enumerated in this section, and when such determinations are agreed upon by a majority of the members of the commission for this State, and a majority of the members of the commission for other states, such determination shall be accepted and followed in the administration of this Act.

(a) Determine from statistics of the United States Department of Agriculture a marketing quota which for any kind of tobacco shall be that quantity of such kind of tobacco produced in the United States which is estimated to be required for world consumption during any crop year, increased or decreased, as the case may be, by the amount by which the world stocks of such kind of tobacco at the beginning of such crop year are less than or greater than the normal world stocks of such kind of tobacco.

(b) Determine a tobacco marketing quota for each State for each kind of tobacco for each crop year for which this Act is in effect with respect to such kind of tobacco. The marketing quota for each State for each kind of tobacco shall be that percentage of the quantity determined under subsection (a) of this section which is equal to the percentage that the total production of such kind of tobacco in the State for the years set forth below is of the total production of such kind of tobacco in the United States for such years:

Flue-cured tobacco, 1935; Burley fire-cured, and dark air-cured tobacco, 1933, 1934 and 1935.

(c) Determine a base tobacco yield for each State for each kind of tobacco. The base tobacco yield for each kind of tobacco for each State shall be the total production of such kind of tobacco in such State in the year or years named in subsection (b) of this section divided by the total harvested acreage of such kind in such State in such year or years.

(d) Determine and make such adjustments from year to year in the percentage of the marketing quota to be assigned to each State, or in the base yield for each State, or both (as determined pursuant to subsections (b) and (c) of this section and as adjusted in any preceding year pursuant to this section), not exceeding two per centum (2%) decrease or five per centum (5%) increase in any crop year of the percentage of the said marketing quota assigned to each State, or five per centum (5%) decrease or increase of the base yield for each State in any crop year, as are determined to be necessary to correct for any abnormal conditions or production during the year or years specified in subsection (b) of this section, and trends in production during or since year or years in any State as compared with other States, provided that the percentages of the marketing quota for any kind of tobacco for all states producing such kind of tobacco, as adjusted pursuant to this subsection, for any year shall equal 100 per cent.

(e) Determine and make adjustments in the marketing quota established pursuant to subsections (b) and (d) of this section for any kind of tobacco for any crop year, not exceeding ten per centum (10%) of said quota, from time to time during the period from August 1 to December 15 of such year, if, upon the study of supply and demand conditions for such kind of tobacco, the Commission finds that such adjustments are required to effectuate the purpose of this Act and of similar acts of other States, provided that any such adjustment shall apply uniformly to all states and only during the crop year in which such adjustment is made.

(f) Determine regulations with respect to the transfer of

marketing certificates among producers of any kind of tobacco within any State or within the several states which are parties to a compact with respect to such kind of tobacco.

§ 5. The Commission shall establish tobacco acreage and tobacco marketing quotas for each crop year for any farm on which tobacco is grown, such quotas to be determined as follows:

(a) For any farm for which a base tobacco acreage and a base tobacco production have previously been determined by the Agricultural Adjustment Administration of the United States Department of Agriculture, as shown by the available records and statistics of that Department, the base tobacco acreage and base tobacco production so last determined shall constitute the tobacco acreage and tobacco marketing quota, subject to such adjustments as are recommended by the county committee of the county in which the farm is located and approved by the Commission as being in conformity with the provisions of subsections (d) and (e) of this section.

(b) For any farm which has a base tobacco acreage and base tobacco production have not been previously determined by the Agricultural Adjustment Administration of the United States Department of Agriculture, the tobacco acreage and tobacco marketing quota shall be established in conformity with the provisions of subsections (d) and (e) of this section provided that the total of the tobacco acreage and of the tobacco marketing quotas established for such farms in any crop year shall not exceed two per centum (2%) of the total tobacco acreage and tobacco marketing quotas, respectively, established pursuant to subsection (a) of this section plus the tobacco acreage and the tobacco marketing quotas established for farms in preceding years pursuant to this subsection.

(c) The Commission may prescribe regulations under which any farm for which tobacco acreage and marketing quotas of one kind of tobacco are established may exchange

such quotas for tobacco acreage and tobacco marketing quotas for another kind of tobacco; provided that all such exchange of quotas between two kinds of tobacco shall not increase by more than two per cent (2%) of the tobacco acreage and tobacco marketing quotas for either kind established for all farms in the state pursuant to subsection (a) of this section.

(d) The tobacco acreage and the tobacco marketing quota established for each farm shall be fair and reasonable as compared with the tobacco acreage and the tobacco marketing quotas for other farms which are similar with respect to the following: The past production of tobacco on the farm and by the operator thereof; the land, labor, and equipment available for the production of tobacco; the crop rotation practices and the soil and other physical factors affecting the production of tobacco.

(e) The tobacco marketing quotas for any kind of tobacco established for all farms in the State in any crop year pursuant to subsections (a), (b), and (c) of this section shall be adjusted so as not to exceed in the aggregate the tobacco marketing quota for such kind of tobacco established for the State for such year, and the Commission shall prescribe such regulations with respect to such adjustments as will tend to protect the interests of small producers. The total of the tobacco acreage quotas for any kind of tobacco established for all farms in the State in any crop year shall not exceed an acreage determined by dividing the marketing quota for such kind of tobacco for the State by the base tobacco yield for such kind of tobacco for the State determined in accordance with subsections (c) and (d) of Section 4.

(f) If, after marketing quotas are established for farms for any kind of tobacco in any crop year, there is an adjustment pursuant to subsection (e) of Section 4 in the Marketing quota for such kind of tobacco for the State for such year, the

marketing quotas for all farms in the State shall be adjusted accordingly.

(g) If a base tobacco yield is not determined by the several State Commissions the Commission for this State shall determine a base yield for the State in accordance with the procedure specified in subsections (c) and (d) of Section 4.

§ 6. The Commission is authorized and directed:

(a) To notify as promptly as possible the operator of each farm, for which acreage and marketing quotas are established, of the amount of such quotas for the farm and of any adjustments thereof which may be made from time to time pursuant to this Act.

(b) Upon application therefor by the operator of the farm, or by the person marketing the tobacco grown thereon, to issue, to the buyer or handler who purchases or handles such tobacco, marketing certificates for an amount of tobacco not in excess of the marketing quota for the farm (as adjusted pursuant to subsection (f) of Section 5) of which such tobacco is produced, or for the quantity of tobacco harvested from the crop produced on such farm, which ever is smaller, provided that if the quantity of tobacco marketed from the crop produced on any farm is less than the marketing quota for the farm, the Commission shall permit the transfer (in accordance with regulations prescribed by the Commission) by the producers on the farm of marketing certificates for an amount of tobacco equal to the difference between the said quantity marketed and the said marketing quota, and provided further that such regulations shall be uniform as to the same kind of tobacco in all States entering into a compact with respect to such kind of tobacco.

(c) Upon application therefor by any buyer or handler, to issue marketing certificates for surplus tobacco produced on the farm upon payment of a charge of twenty-five per centum (25%) of the gross value, or of one and one-

half cents per pound, which ever is larger, of the tobacco covered by such certificates. The buyer or handler, in settling with the grower, shall deduct from the proceeds of sale of such surplus tobacco, or, if not sold, from any advance or loan thereon, the amount of such charge, which charge shall be deemed an assessment upon the producer for the purposes of paying the costs, charges, and expenditures provided for by this Act.

(d) Upon application therefor by any tobacco dealer, to issue, under such terms and conditions as the Commission shall by regulations prescribe, resale certificates for such tobacco purchased by any dealer during any day as such dealer specifies will be resold prior to the redrying or processing thereof, where marketing certificates or resale certificates have been issued for such tobacco pursuant to the provisions of this Act.

(e) To utilize such services of the County Agent in their respective counties and of existing agricultural conservation committees as may be available in the administration of this Act and which are not in conflict with their present authority and duties.

(f) To provide for the making of such investigations and the holding of such hearings as the Commission finds necessary in connection with the establishment of acreage and marketing quotas for farms and to designate persons to conduct such investigations and hold such hearings in accordance with regulations prescribed by the Commission.

(g) To measure the acreage of tobacco grown for harvest on each farm for the purpose of checking such measurements with the acreage quota for the farm and to prescribe any such regulations as may be necessary in connection therewith.

(h) To prescribe such other regulations as the Commission finds necessary to the exercise of the powers and the per-

formance of the duties vested in it by the provisions of this Act.

§ 7. The Commission is authorized:

(a) To accept, deposit with the State Treasurer, and provide for the expenditure of such funds as the Congress of the United States may advance or grant to the State for the purpose of administering this Act. Such expenditure shall be in accordance with the Act of Congress authorizing or making such advance or grant.

(b) To receive, through such agents as it may designate, all payments covering the sale of marketing certificates pursuant to subsection (c) of Section 6; to provide for the fixing of an adequate bond for any person responsible for receiving and disbursing any funds of or administered by the Commission, and to provide for the expenditure of such funds in the manner prescribed in Section 9 of this Act.

§ 8. All receipts from sale of marketing certificates pursuant to subsection (c) of Section 6 and all funds granted or advanced to the State by the Congress of the United States for the purpose of administering this Act shall be deposited with the State Treasurer and shall be placed by him in a special fund known as the "Tobacco Commission Account", and the entire amount of such receipts and funds hereby is appropriated out of such Tobacco Commission Account and shall be available to the Commission until expended.

§ 9. Funds of or administered by the Commission shall be expended in accordance with regulations prescribed by the Commission for the following purposes: First, to repay to the Treasurer of the United States any funds advanced to the State by the Congress of the United States for the purpose of administering this Act, provided the United States requires such payment. Second, to pay any expenses lawfully incurred in the administration of this Act, including expenses of any agency of the State incurred at the request of the Commission. Third, to make payment to tobacco producers whose

sales of tobacco, because of loss by fire or weather, or diseases affecting their tobacco crops adversely during any crop year, are less than the marketing quotas for their farms for such year. Such payments shall be at a rate per pound of such deficit determined by dividing the funds available for such payments by the total number of pounds by which the sales of tobacco by all producers fall below the marketing quotas for their farms, provided that such deficit is due to loss by fire or weather, or diseases affecting their crops adversely, and provided, further, that such rate of payment shall in no event exceed five cents per pound, and that no such payments shall be made until there is established as a reserve an amount necessary to pay the expenses which the Commission estimates will be incurred in the administration of this Act for a period of one crop year.

§ 10. Upon the establishment of marketing quotas for any kind of tobacco for individual farms for any crop year, pursuant to the provisions of this Act, it shall be unlawful,

(a) For any person knowingly to sell, to buy, to redry or to condition or otherwise process any of such kind of tobacco harvested in such crop year unless the marketing certificates therefor have been issued as provided in this Act.

(b) For any dealer to resell any of such kinds of tobacco for which marketing certificates have not been issued as aforesaid, prior to the redrying, conditioning, or processing thereof, except in his own name, or to resell any such tobacco except that purchased and owned by him and covered by a marketing certificate or resale certificate previously issued showing such dealer to be the purchaser of such tobacco or to redry, condition, or process or to have redried conditioned, or processes, prior to the resale thereof, any such tobacco covered by a resale certificate unless the resale certificate issued with respect thereto is surrendered to the Commission.

§ 11. Any person wilfully selling, buying, redrying, conditioning or processing tobacco of any kind with respect

to which this Act is effective for which marketing certificates or resale certificates have not been issued as provided in this Act, or any person wilfully participating or aiding in the selling, buying, redrying, conditioning or processing of tobacco not covered by such marketing or resale certificates, or any person offering for sale or selling any tobacco except in the name of the owner thereof, shall forfeit to the State a sum equal to three times the current market value of such tobacco at the time of the commission of such act, which forfeiture shall be recoverable in a civil suit brought in the name of the State.

§ 12. Any operator wilfully harvesting or wilfully permitting the harvesting of tobacco on a farm from an acreage in excess of the acreage quota for the farm shall forfeit to the State a sum equal to $50.00 per acre of that acreage harvested in excess of the acreage quota for the farm, which forfeiture shall be recoverable in a civil suit brought in the name of the State.

§ 13. Any person violating any provisions of this Act, or of any regulation of the Commission issued pursuant thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be fined a sum of not more than fifty dollars for the first offense, and not more than one hundred dollars for each subsequent offense.

§ 14. All tobacco producers, warehousemen, buyers, dealers, and other persons having information with respect to the planting, harvesting, marketing, or redrying or conditioning or processing of tobacco in this State shall from time to time, upon written request of the Commission or its duly authorized representative, furnish such information and file such returns as the Commission may find necessary or appropriate to the enforcement of this Act. Any person willfully failing or refusing to furnish such information or to file such return, or wilfully furnishing any false information or wilfully filing any false return, shall be guilty of a misdemeanor

and upon conviction thereof shall be fined a sum of not more than one hundred dollars for each such offense.

§ 15. The several circuit courts of the State are hereby vested with jurisdiction specifically to punish violations of this Act, and are vested with jurisdiction, upon application of the Commission, to enjoin and restrain any person from violating the provisions of this Act or of any regulations issued pursuant to this Act.

§ 16. Upon request of the Commission, it shall be the duty of the several attorneys for the State in their respective jurisdictions, to institute proceedings to punish for the offenses, enforce the remedies, and to collect the forfeitures provided for in this Act, and it shall be the duty of the Commission to call to the attention of the prosecuting officers of the State any violation of the criminal provisions of this Act.

§ 17. If any provision of this Act or the application thereof to any person or circumstance shall be held invalid, the invalidity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 18. In order to assure the proper coordination of the administration of this Act with the administration of similar acts of other States, marketing certificates and resale certificates shall be issued by the Commission, in accordance with regulations prescribed by the Commission, with respect to tobacco marketed in this State, or redried, conditioned, or processed in this State prior to the first sale thereof, or resold, even though such tobacco was produced in another State, and the receipts from sales of marketing certificates for surplus tobacco produced in such other State shall be paid to the commission of the State in which such tobacco was produced and the Commission shall cooperate with and assist the commission of any other State in obtaining such records as may be necessary to the administration of any similar act of such State.

§ 19. The compact as referred to in Section 3 of this Act shall contain the provisions shown below, subject to such alterations or amendments as shall not be in conflict with the provisions of this Act, and as shall be agreed upon from time to time by the States which enter into such compact.

COMPACT

This agreement entered into this.....day of.....
between the State of....., By....., Governor
the State of ....., By....., Governor
the State of ....., By....., Governor
and the State of ....., By....., Governor

WITNESSETH

Whereas, the parties hereto have each enacted a State statute providing for the regulation and control of the production and sale of tobacco in the States, and providing for the protection of the producers' tobacco crops from the adversities of unfavorable weather, crop diseases, and fire; and,

Whereas, it is the desire of the parties uniformly to enforce each State statute so as to accomplish the purpose for which each was enacted:

Now, Therefore, the parties do hereby jointly and severally agree as follows:

(1) To cooperate with each other in establishing for each crop year a marketing quota for each State for each kind of tobacco referred to in the respective State statutes with respect to which such State statutes are or will be in effect for such crop year.

(2) To cooperate with each other in formulating such regulations as will assure uniform and effective administration and enforcement of each of the aforesaid State statutes.

(3) Not to depart from or fail to enforce to the best of its ability any regulation concerning the enforcement of the

State statutes without the consent of a majority of the members of the tobacco commissions of each of the several parties to this compact.

IN WITNESS WHEREOF, the parties here hereunto set their hands as of the date of the year first above written.

State of .....
By .....
Governor
State of .....
By .....
Governor
State of .....
By .....
Governor
State of .....
By .....
Governor

Mr. Dickson offered the following amendment to said bill, viz.:

Amend the printed copy of Senate Bill No. 22 by adding on page 19, paragraph 20 to read as follows: "This Act shall be known and cited as the Gilbert-Wells Tobacco Control Act."

Said amendment was agreed to.

Mr. Wells offered the following amendment to said bill, viz.:

Amend S. B. 22 on page 17 by striking therefrom all of Section 16½ and inserting in lieu thereof the following words: "The State Tobacco Commission shall have the power to establish a minimum base for small growers who have established bases or who are unable to establish bases under the

provision of this Act, below which they shall not be required to reduce."

Mr. Wells moved the Previous Question on said amendment.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Mr. Munford moved that the House do now resolve itself into a Committee of the Whole House on the State of the Commonwealth, for the purpose of discussing said amendment.

Said motion was disagreed to.

Mr. Ward moved that Mr. Ben Kilgore be requested to appear before this House and explain the provisions of said bill and the effect of said amendment, and that five minutes be allotted for said discussion.

Mr. Reuben Boling moved that said motion be amended to allot ten minutes for such discussion.

Said amendment was disagreed to.

The motion as made by Mr. Ward was then agreed.

Mr. Kilgore appeared before the House and for five minutes discussed the provisions of said bill and answered the questions propounded by various members of the House.

Said amendment was then agreed to.

The yeas and nays being taken thereon, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	John M. Hunnicut	A. W. Pfeiffer
C. W. Anderson, Jr.	O. C. Jones	L. K. Rice
W. T. Baker	T. B. McConnell	Joe E. Robinson
B. F. Bedford	Lloyd MacDonald	John C. Robinson
Douglas Bolling	W. F. McGary	W. T. Rollo
Wallace Brown	Elmer McGlothen	Carl Scheben
Roscoe Claxon	John Marshall	Carl Schneider
George S. Clay	C. S. Matherly	Dr. B. F. Shields
Herbert Cook	D. T. Matlack	P. L. Sidebottom
Stanley S. Dickson	Duke Mayfield	Chester D. Silvers
George W. Dunlap	G. S. Milam	J. J. Thomas
Howard G. Early	W. E. Mull	S. J. Wagner
T. P. Fitzpatrick	Tyler Munford	Henry Ward
Eugene Gough	Rodes K. Myers	L. R. Wells
W. L. Hampton, Jr.	Russell O'Neill	W. G. Williams
Ira W. Hulette	Mel Petry	—47

Those who voted in the negative were—

Reuben J. Boling	Jas. T. Hamilton	John B. Mollett
Ollie J. Bowen	C. L. Hammons	J. C. Nickell
Dr. R. A. Byers	Thomas W. Hines	J. C. Ramey
Jas. C. Carter	Price Holbrook	Hobart Rayburn
V. O. Chandler	Clyde S. Howard	Wade H. Riley
Floyd Clark	Ben W. Johnson	A. W. Ross
Harry Davis	J. H. Jones	Ray O. Shehan
Sam Dever	R. T. Kirkman	Henry Stewart
Garland Embry	J. F. Ladd	Joseph L. Wall
Walter R. Fannin	Leslie Larrimore	Charles Wylie
G. W. Garrett	M. T. McCarthy	—32

Mr. Davis moved that said bill be made a Special Order for tomorrow at ten-fifteen o'clock A. M.

Said motion was disagreed to.

Mr. Mayfield offered the following amendment to said bill, viz.:

Amend S. B. 22 Section 1, page 3, line 44 by striking therefrom following the word "poundage" all of the balance of said section and inserting in lieu thereof the following:

"There shall be in Kentucky four (4) districts, one of which shall consist of the growers of the type known as one-sucker; one consisting of the growers of the type of dark-fire-cured; one consisting of the type known as dark air-cured; and one consisting of the growers of burley. Said districts shall be made up of those counties raising more than fifty per cent of any of the aforesaid types of tobacco within said counties.

Mr. Mayfield moved the Previous Question on said amendment.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Said amendment was then disagreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

Douglas Bolling	W. L. Hampton, Jr.	Duke Mayfield
V. O. Chandler	Ben W. Johnson	G. S. Milam
George S. Clay	M. T. McCarthy	Rodes K. Myers
Roy Conway	T. B. McConnell	Russell O'Neill
Garland Embry	W. F. McGary	Wade H. Riley

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Those who voted in the negative were—

F. T. Allen	Howard G. Early	Hobart Rayburn
Henry H. Allen	Walter R. Fannin	L. K. Rice
C. W. Anderson, Jr.	Thomas W. Hines	Joe E. Robinson
W. T. Baker	Clyde S. Howard	John C. Robinson
B. F. Bedford	Ira W. Hulette	W. T. Rollo
Ollie J. Bowen	J. H. Jones	Carl Schneider
Wallace Brown	O. C. Jones	P. L. Sidebottom
Dr. R. A. Byers	Leslie Larrimore	Chester D. Silvers
Jas. C. Carter	Lloyd MacDonald	Bruce Sloan
Floyd Clark	Elmer McGlothen	Henry Stewart
Roscoe Claxon	John Marshall	J. J. Thomas
Herbert Cook	C. S. Matherly	R. Van Bever, Jr.
Harry Davis	D. T. Matlack	Henry Ward
Sam Dever	John B. Mollett	L. R. Wells
Stanley S. Dickson	J. C. Nickell	W. G. Williams
George W. Dunlap	A. W. Pfeiffer	Charles Wylie

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Mr. Johnson moved that the House do now adjourn.

Said motion was disagreed to.

Mr. Garrett offered the following amendments to said bill, viz.:

1. Amend S. B. 22, Section 5, page 11 at end of line 8 after the word "determined" by inserting the following words "ninety percent of which"

2. Amend S. B. 22, Section 5, page 11, line 9 after the word "quota" by inserting the words "for such farms"

3. Amend S. B. 22, Section 5, page 11, line 17 after the words "shall be" by inserting the following words "ten percent of State's quota where such demands are made for such base acreage for such farms"

4. Amend S. B. 22, page 17 by striking all of Section 16½.

Amendments Nos. 1 and 4 as offered by Mr. Garrett were ruled out of order, in that they attempted to amend an amendment heretofore adopted.

Amendments Nos. 2 and 3 as offered by Mr. Garrett were withdrawn by unanimous consent.

Mr. Howard offered the following amendment to said bill, viz.:

Amend S. B. 22 by adding at the end of Section 16 on page 16 of the printed bill the following: "Section 16½. This Act shall not apply to, nor affect in any way persons who produce two (2) acres of tobacco or less per year."

Said amendment was ruled out of order in that it attempted to amend an amendment heretofore adopted.

Mr. Sidebottom offered the following amendment to said bill, viz.:

Amend S. B. 22, on page 7, Section 3, line 6 "omit Indiana Ohio" and insert the words "West Virginia in line 8 of page 7, Section 3.

Said amendment was disagreed to.

Mr. McGlothen offered the following amendments to said bill, viz.:

1. Amend S. B. 22, Section 1, page 4 by striking all the language beginning with "there shall be" and so forth, and ending in line 71 on said page with the words "Elliott & Morgan" and insert therefor the following: "There shall be in Kentucky ten districts—district number one (Western District) having the said counties of Fulton, Hickman, Carlisle, Ballard, McCracken, Graves, Calloway, Marshall, Livingston,

Crittenden, and Lyon; district number two (Southwestern District) having the said counties of Trigg, Caldwell, Hopkins, Webster, Union, Christian, Todd, Muhlenberg, Logan, McLean and Simpson; district number three (Northwestern District) having the said counties of Henderson, Daviess, Hancock, Breckinridge, Ohio, Grayson, Meade and Butler; district number four (North Central District) having the said counties of Bullitt, Jefferson, Oldham, Trimble, Shelby, Spencer, Nelson, Washington, Hardin and Henry; district number five (West Central District) having the said counties of Boyle, Larue, Hart, Casey, Edmonson, Green, Taylor, Adair, Marion, Lincoln and Rockcastle; district number six (Southern District) having the said counties of Allen, Warren, Barren, Metcalfe, Monroe, Cumberland, Clinton, Wayne, Russell and Pulaski; district number seven (Northern District) having the said counties of Carroll, Gallatin, Boone, Kenton, Campbell, Owen, Grant, Harrison and Scott; district number eight (Central District) having the said counties of Franklin, Bourbon, Woodford, Mercer, Jessamine, Anderson, Garrard and Fayette; district number nine (Northeastern District) having the said counties of Bracken, Mason, Lewis, Greenup, Boyd, Lawrence, Carter, Elliott, Rowan, Fleming, Bath, Montgomery, Pendleton, Nicholas, Robertson, Menifee, Morgan and Johnson; district number ten (East Central District) having the said counties of Clark, Madison, Powell, Estill, Wolfe, Magoffin, Lee, Breathitt, Floyd, Perry, Owsley, Whitley, Clay, Laurel, Knox, Jackson and Letcher (not placed) McCreary, Leslie, Harlan, Knott, Pike and Bell.

Amend No. 2. Amend S. B. 22 in House, by striking all the language on pages 4 and 5, beginning with line 4 and ending with line 33 on page 5 and inserting in lieu thereof the following language:

Section 2. There is hereby created a commission to be known as the Kentucky Tobacco Commission (hereinafter

referred to as the "Commission"). The Commission shall consist of ten (10) members selected as follows: Immediately after the effective date of this bill, and for the year 1937 the Governor of the Commonwealth of Kentucky shall arrange through the county agents in their respective counties for a meeting of tobacco growers in each county (any county in which there are less than 100 tobacco producers shall be grouped with another adjoining county) at which four (4) tobacco producers shall be elected by the producers attending the meeting to serve as county committeemen for one crop year. The State Tobacco Committee shall arrange annually for a meeting of the county Committeemen elected in each county, at which meeting the growers in each county shall nominate from among tobacco producers in their respective counties, four (4) persons to serve as county committeemen. From the said four (4) county committeemen nominated in each county the Governor shall appoint one producer to serve for a period of one crop year as a member of the Commission. No tobacco warehousemen, non-producer, tobacco buyer or manufacturer shall be eligible for appointment on said Commission. Vacancies on the Commission during any crop year shall be filled by the Governor by the appointment of another of the said district nominees for the remainder of such year from the district in which the vacancy occurs. At the end of each crop year the tobacco commission shall be selected for the succeeding crop year in the manner provided above. Each member of the Commission not already in the employment of the State shall be paid the sum of ten dollars ($10.00) for each day actually spent in the performance of his duties and shall be reimbursed for each day actually spent in the performance of his duties and shall be reimbursed for subsistence not exceeding five dollars ($5.00) per day and for necessary travel expenses.

Said amendments were each ruled out of order .

Mr. Gough offered the following amendment to said bill, viz.:

Amend S. B. 22 on page 17, by striking therefrom all of Section 16½ and substituting therefor the words: "This Act shall not apply to, nor affect in any way persons who have in any one of the previous five years grown tobacco and who produce two (2) acres or less per year; provided that the type of tobacco to be produced in 1937 and succeeding years shall be the same as that produced in at least one of the preceding years."

Said amendment was ruled out of order.

Mr. Reuben Boling offered the following amendment to said bill, viz.:

Amend S. B. 22 by, after line 7 and immediately following amendment No. 2 as approved by House, the following: "provided that no farm upon which tobacco has been grown, shall be allotted an acreage of less than one acre nor a production of less than 1000 pounds and that such growers be exempt from the provisions of this bill to that extent."

Said amendment was ruled out of order.

Mr. Gough offered the following amendment to said bill, viz.:

Amend S. B. 22 on page 17, by striking therefrom all of Section 16½ and substituting therefor the words: "This Act shall not apply to, nor affect in any way persons who have in any of the five previous years grown tobacco and who produce two (2) acres of tobacco or less per year."

Said amendment was ruled out of order.

Mr. Gough moved that the vote by which the House agreed to the amendment, as offered by Mr. Wells, be reconsidered.

Said motion was disagreed to.

The yeas and nays being taken thereon were as follows, viz.:

Those who voted in the affirmative were—

Reuben J. Boling	Price Holbrook	John B. Mollett
Douglas Bolling	Clyde S. Howard	J. C. Nickell
Ollie J. Bowen	Ben W. Johnson	Hobart Rayburn
Jas. C. Carter	J. H. Jones	Wade H. Riley
Sam Dever	R. T. Kirkman	P. L. Sidebottom
Garland Embry	J. F. Ladd	Henry Stewart
Walter R. Fannin	M. T. McCarthy	Joseph L. Wall
G. W. Garrett	T. B. McConnell	Charles Wylie
Eugene Gough	W. F. McGary	
Thomas W. Hines	Duke Mayfield	—28

Those who voted in the negative were—

Henry H. Allen	John M. Hunnicut	Joe E. Robinson
C. W. Anderson, Jr.	O. C. Jones	John C. Robinson
W. T. Baker	Elmer McGlothen	W. T. Rollo
B. F. Bedford	John Marshall	A. W. Ross
Wallace Brown	C. S. Matherly	Carl Scheben
Dr. R. A. Byers	D. T. Matlack	Carl Schneider
Floyd Clark	G. S. Milam	Dr. B. F. Shields
Roscoe Claxon	W. H. Miller	Chester D. Silvers
George S. Clay	W. E. Mull	Dr. H. S. Swope
Herbert Cook	Tyler Munford	J. J. Thomas
Stanley S. Dickson	Rodes K. Myers	S. J. Wagner
George W. Dunlap	Russell O'Neill	Henry Ward
Howard G. Early	Mel Petry	L. R. Wells
W. L. Hampton, Jr.	A. W. Pfeiffer	W. G. Williams
Ira W. Hulette	L. K. Rice	—44

Mr. Myers moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Eugene Gough	D. T. Matlack
C. W. Anderson, Jr.	James T. Hamilton	Duke Mayfield
W. T. Baker	C. L. Hammons	G. S. Milam
B. F. Bedford	W. L. Hampton, Jr.	John B. Mollett
Reuben J. Boling	Thomas W. Hines	W. E. Mull
Douglas Bolling	Price Holbrook	Tyler Munford
Ollie J. Bowen	Clyde S. Howard	Russell O'Neill
Wallace Brown	Ira W. Hulette	Mel Petry
Dr. R. A. Byers	John M. Hunnicut	A. W. Pfeiffer
Jas. C. Carter	J. H. Jones	L. K. Rice
Roscoe Claxon	O. C. Jones	Wade H. Riley
George S. Clay	J. F. Ladd	John C. Robinson
Herbert Cook	Leslie Larrimore	W. T. Rollo
Sam Dever	M. T. McCarthy	A. W. Ross
Stanley S. Dickson	T. B. McConnell	Carl Scheben
George W. Dunlap	Lloyd MacDonald	Carl Schneider
Howard G. Early	W. F. McGary	Dr. B. F. Shields
Garland Embry	Elmer McGlothen	P. L. Sidebottom
Walter R. Fannin	John Marshall	Chester D. Silvers
T. P. Fitzpatrick	C. S. Matherly	Bruce Sloan

H. C. Steely	J. J. Thomas	L. R. Wells
Henry Stewart	S. J. Wagner	W. G. Williams
Dr. H. S. Swope	Henry Ward	Charles Wylie

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Those who voted in the negative were—

F. T. Allen	Ben W. Johnson	Joseph L. Wall
Floyd Clark	W. R. Tapp	

—5

Mr. Dickson offered the following amendment to the title of said bill, viz.:

Amend the title to S. B. 22 by striking out the period after the word "states" and inserting a comma and adding the following words: "and this Act shall be known and cited as the Gilbert-Wells Tobacco Control Act".

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Wells moved that the vote by which said bill was passed as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Speaker announced the appointment of all Standing Committees of this House, not heretofore announced, to be the same as during the regular session, 1936.

A message was received from the Senate announcing that they had passed a resolution and bills which originated in this House entitled:

H. Res. 12. Resolution for the benefit of Ben Haskney, Kaley Barker, Powell Thomas, etc.

H. B. 20. An Act providing for a supplementary appropriation for the Department of Welfare for the fiscal year 1936-1937.

H. B. 16. An Act repealing Section 2237-1 Carroll's Kentucky Statutes (1930 Revision, being Chapter 24 of the Acts of Extraordinary Session of the General Assembly of 1934, relating to the consolidation of the office of jailer with that of sheriff in each County of the State.

Ordered that said bills and resolution be delivered to the Enrolling Clerk of this House.

Mr. Schneider moved that the House do now adjourn until tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

SATURDAY, JANUARY 16, 1937.

The House was opened with prayer by the Reverend Hampton Adams of the First Christian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

F. T. Allen	Ollie J. Bowen	Roy Conway
Henry H. Allen	Wallace Brown	Herbert Cook
C. W. Anderson, Jr.	Jas. C. Carter	Harry Davis
W. T. Baker	V. O. Chandler	Sam Dever
B. F. Bedford	Floyd Clark	Stanley S. Dickson
Reuben J. Boling	Roscoe Claxon	George W. Dunlap
Douglas Bolling	George S. Clay	Howard G. Early

Walter R. Fannin	T. B. McConnell	Joe E. Robinson
T. P. Fitzpatrick	J. L. McDermott	John C. Robinson
H. Myer Garner	Elmer McGlothen	W. T. Rollo
G. W. Garrett	John Marshall	Carl Scheben
Eugene Gough	C. S. Matherly	Carl Schneider
Ben Grogan	D. T. Matlack	Ray O. Shehan
James T. Hamilton	Duke Mayfield	Dr. B. F. Shields
C. L. Hammons	G. S. Milam	P. L. Sidebottom
W. L. Hampton, Jr.	W. H. Miller	Chester D. Silvers
Thomas W. Hines	John B. Mollett	H. C. Steely
Price Holbrook	W. E. Mull	Henry Stewart
Clyde S. Howard	Tyler Munford	W. R. Tapp
Ira W. Hulette	Rodes K. Myers	J. J. Thomas
John M. Hunnicut	J. C. Nickell	R. Van Bever, Jr.
Ben W. Johnson	Russell O'Neill	S. J. Wagner
J. H. Jones	Mel Petry	Joseph L. Wall
O. C. Jones	A. W. Pfeiffer	Henry Ward
R. T. Kirkman	J. C. Ramey	L. R. Wells
J. F. Ladd	Hobart Rayburn	W. G. Williams
Leslie Larrimore	L. K. Rice	Charles Wylie
M. T. McCarthy	Wade H. Riley	John Kirtley, Spkr.

Mr. Hammons moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Matlack moved that the Journal of this House show that a bill entitled:

S. B. 2. An Act relating to revenues and taxation and repealing Sections 4064, 4241, 4257a, 4260-2, 4260-3 and 4265, Kentucky Statutes, Carroll's 1930 and 1936 Editions, and repealing, amending and re-enacting Sections 4258, 4259, 4260-1, 4260b, 4260c, 4260d-1, 4261, 4262, 4263, 4019a-13 and 4267 of said Statutes; and repealing all laws in conflict with this Act to the extent of such conflict, and declaring an emergency.

Which was passed by this House on January 14, was passed by the House in the exact form as passed by the Senate.

Said motion was agreed to.

A message was received from the Senate announcing that they had refused to concur in the amendments as proposed and adopted by this House, to a bill which originated in the Senate, entitled:

S. B. 22. An Act for the regulation, and supervision of the production, sale, marketing and distribution of tobacco, etc.

And respectfully request that the House recede from said amendments.

(For bill and amendments as proposed and adopted by the House, see House Journal of yesterday)

Mr. Myers moved that the House do now refuse to recede from said amendments and that a Committee on conference be appointed by the Speaker to confer with a like Committee on the part of the Senate, to settle the differences between the two Houses.

Said motion was agreed to.

Thereupon the Speaker appointed Messrs. Wells, Howard, John C. Robinson, Douglas Bolling and Kirkman as members constituting said Committee.

Ordered that the Chief Clerk report the action of this House to the Senate.

And a message was received from the Senate announcing that they had passed bills which originated in this House of the following titles, viz.:

H. B. 13. An Act to protect trade-mark owners, distributors and the public against injurious and uncommon practices, etc.

H. B. 21. An Act relating to certain officers and employees of the Department of Public Health and the Department of Public Welfare of cities of the first class, etc.

Ordered that said bills be delivered to the Enrolling Clerk of this House.

Mr. Myers moved that the Rules of this House be suspended and that the House proceed to the consideration of the Orders of the Day.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 27. An Act to prohibit distribution, sale or exchange in Kentucky of goods, wares or merchandise, manufactured in whole or in part by convicts or prisoners, except those manufactured for the use of the State in its institutions and administrative branches of its government.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That from and after the effective date of this Act, no goods, wares, or merchandise, manufactured or produced wholly or in part by convicts or prisoners (except convicts or

prisoners on parole or probation) in the State of Kentucky or in any state or district, of the United States, shall be sold or offered for sale in this State, by any person, firm, association or corporation, or by any Federal authority, state or political subdivision thereof, provided, however, that nothing in this Act shall be construed to forbid the sale, exchange, or distribution of such goods, to any institution supported wholly by funds derived from public taxation, and operated under the supervision of the United States of America, the State of Kentucky, or any other State of the Union, or any political subdivision thereof, or to forbid the State of Kentucky from manufacturing automobile tags, road signs, and any other goods that said State has to furnish to any of its institutions or to any branches of its government in its administrative capacity.

Any person, firm or corporation violating the provisions of this Act, shall upon conviction thereof, be fined not exceeding $1,000.00, for each separate offense, or by imprisonment for not more than six months, or both so fined and imprisoned in the discretion of the jury or court trying the case.

All laws in conflict herewith are hereby repealed and Sections 524, 525, and 526 of the 1930 Edition of Carroll's Kentucky Statutes, are hereby expressly repealed.

Mr. Joe Robinson moved that said bill be laid on the table.

Said motion was disagreed to.

The yeas and nays being taken thereon, were as follows, viz.:

Those who voted in the affirmative were—

Elmer McGlothen	J. C. Nickell	Joe E. Robinson
John Marshall	L. K. Rice	John C. Robinson
Rodes K. Myers	Wade H. Riley	—8

Those who voted in the negative were—

Henry H. Allen	Ben Grogan	John B. Mollett
C. W. Anderson, Jr.	Jas. T. Hamilton	W. E. Mull
B. F. Bedford	C. L. Hammons	Russell O'Neill
Reuben J. Boling	W. L. Hampton, Jr.	Mel Petry
Jas. C. Carter	Thomas W. Hines	A. W. Pfeiffer
V. O. Chandler	Clyde S. Howard	W. T. Rollo
Floyd Clark	Ira W. Hulette	Carl Scheben
Roscoe Claxon	John M. Hunnicut	Ray O. Shehan
George S. Clay	Ben W. Johnson	P. L. Sidebottom
Roy Conway	O. C. Jones	Henry Stewart
Herbert Cook	R. T. Kirkman	W. R. Tapp
Harry Davis	J. F. Ladd	J. J. Thomas
Sam Dever	Leslie Larrimore	R. Van Bever, Jr.
Walter R. Fannin	T. B. McConnell	S. J. Wagner
T. P. Fitzpatrick	Lloyd MacDonald	Henry Ward
G. W. Garrett	Duke Mayfield	W. G. Williams
Eugene Gough	W. H. Miller	Charles Wylie

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Mr. Gough moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only, and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	W. T. Baker	Reuben J. Boling
C. W. Anderson, Jr.	B. F. Bedford	Ollie J. Bowen

Wallace Brown	Thomas W. Hines	Mel Petry
Jas. C. Carter	Clyde S. Howard	A. W. Pfeiffer
V. O. Chandler	Ira W. Hulette	W. T. Rollo
Roscoe Claxon	Ben W. Johnson	Carl Scheben
George S. Clay	J. H. Jones	Carl Schneider
Roy Conway	O. C. Jones	Ray O. Shehan
Herbert Cook	J. F. Ladd	P. L. Sidebottom
Harry Davis	Leslie Larrimore	Chester D. Silvers
Walter R. Fannin	T. B. McConnell	H. C. Steely
T. P. Fitzpatrick	J. L. McDermott	Henry Stewart
H. Myer Garner	Lloyd MacDonald	J. J. Thomas
G. W. Garrett	W. F. McGary	R. Van Bever, Jr.
Eugene Gough	Duke Mayfield	S. J. Wagner
Ben Grogan	W. H. Miller	Henry Ward
Jas. T. Hamilton	John B. Mollett	W. G. Williams
C. L. Hammons	W. E. Mull	Charles Wylie
W. L. Hampton, Jr.	Russell O'Neill	—56

Those who voted in the negative were—

R. T. Kirkman	J. C. Ramey	John C. Robinson

—3

Resolved that the title thereof be as aforesaid.

Mr. Gough moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 19. An Act to amend and re-enact Section two thousand seven hundred forty-one 1–twenty-five (2741 1-25), of the Kentucky Statutes, Carroll's Edition one thousand nine hundred thirty-six (1936), as amended by Chapter one hundred eleven (111) of the Acts of one thousand nine hundred

thirty-two (1932), relating to the purchase of water works by Municipal Corporations.

Said bill is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That Section two thousand seven hundred forty-one 1–twenty-five (2741 1-25) of the Kentucky Statutes, Carroll's Edition one thousand nine hundred thirty-six (1936), as amended by Chapter one hundred eleven (111) of the Acts of one thousand nine hundred thirty-two (132), relating to the purchase of water works by Municipal Corporations, be amended and re-enacted so as to read as follows:

Section 2741 1-25. *Purchase of water works, publication of agreement; petition for election, notice, time, form of ballot.* One or more of such water works, owned by one or more persons or corporations, may be acquired hereunder as a single enterprise, and the Common Council or Board of Commissioners or corresponding legislative body of such city shall have the authority to purchase the same at such value after publishing said agreement of purchase setting out the price, interest rate, condition of plant, possible depreciation and repairs in all the newspapers of general circulation of such city or in such county in which such city is located. In case no such newspaper is published in such city or county, then by posting large posters in ten (10) or more prominent places in such city, setting out the above details, for a period of forty-five (45) days. If within such time a petition signed by twenty-five per centum (25%) of the qualified voters of such city who voted at the last preceding regular election, stating the residence of each signer and verified as to signatures and residence by the affidavits of one or more persons, calling for an election to be held on the regular November election day in such year, and if such election occurs more than forty-five (45) days after the time of filing such petition,

or if the next November election occurs less than forty-five (45) days after the filing of such petition, it shall go over until the next November election occurring more than forty-five (45) days thereafter, which said petition shall be filed with the County Clerk of such county. Notice of such election in addition to any other publication or notice required herein, shall be given in the same manner as above required to give notice of such agreement of such City Council or Board of Commissioners or corresponding legislative body, with such electric light, heat and power plants, which is as follows: By publishing the price, terms of bonds, interest, general repairs and condition of plant and nature of such election in all the newspapers of general circulation, published in such city for a period of forty-five (45) days or if no newspaper of general circulation is published in such county and if no such newspaper is published in such city or county, then by posting large posters in ten (10) or more prominent places in such city. The election shall be held at the next November election held more than forty-five (45) days after the time of such publication. Said purchase shall not be consummated unless such election is carried by a majority vote of all the qualified voters voting on such proposition. The question to be submitted to the voters on the ballot of such election shall be:

Are you in favor of the city of.....purchasing ..... at the price of .....?

All blanks in such question shall be completed before submitting ballots to qualified voters.

Mr. Myers offered the following amendment to said bill, viz.:

Amend S. B. 19 by striking therefrom after the word "of" in line 19 on page 2, the following words "forty-five (45) days" and substituting therefor the words: "ten (10) days".

Said amendment was disagreed to.

The yeas and nays being required thereon by Messrs. Silvers and Hampton, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Ben W. Johnson	L. K. Rice
C. W. Anderson, Jr.	J. H. Jones	Wade H. Riley
Jas. C. Carter	J. F. Ladd	Joe E. Robinson
V. O. Chandler	D. T. Matlack	Bruce Sloan
Stanley S. Dickson	G. S. Milam	S. J. Wagner
T. P. Fitzpatrick	Rodes K. Myers	Joseph L. Wall
C. L. Hammons	J. C. Nickell	L. R. Wells
Price Holbrook	J. C. Ramey	W. G. Williams

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Those who voted in the negative were—

Reuben J. Boling	W. L. Hampton, Jr.	Russell O'Neill
Wallace Brown	Ira W. Hulette	Mel Petry
Roscoe Claxon	O. C. Jones	Hobart Rayburn
George S. Clay	J. L. McDermott	Carl Scheben
Roy Conway	W. F. McGary	Carl Schneider
Herbert Cook	Elmer McGlothen	P. L. Sidebottom
Sam Dever	John Marshall	Chester D. Silvers
George W. Dunlap	C. S. Matherly	Henry Stewart
Walter R. Fannin	Duke Mayfield	W. R. Tapp
H. Myer Garner	W. H. Miller	R. Van Bever, Jr.
G. W. Garrett	John B. Mollett	Henry Ward
Eugene Gough	W. E. Mull	Charles Wylie

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Mr. Myers moved that Mayor Reid Wilson, of the city of Lexington, be requested to appear before the House for an informal discussion of said bill.

Said motion was agreed to.

Thereupon Mr. Reid Wilson, Mayor of the city of Lexington, discussed the provisions of said bill before the House.

Mr. Silvers moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

F. T. Allen	C. L. Hammons	Mel Petry
W. T. Baker	W. L. Hampton, Jr.	J. C. Ramey
B. F. Bedford	Thomas W. Hines	Hobart Rayburn
Reuben J. Boling	Ira W. Hulette	L. K. Rice
Ollie J. Bowen	Ben W. Johnson	Wade H. Riley
Wallace Brown	J. H. Jones	Carl Scheben
Jas. C. Carter	O. C. Jones	Ray O. Shehan
Roscoe Claxon	Leslie Larrimore	Dr. B. F. Shields
George S. Clay	T. B. McConnell	P. L. Sidebottom
Roy Conway	J. L. McDermott	Chester D. Silvers
Herbert Cook	Lloyd MacDonald	Bruce Sloan
Sam Dever	W. F. McGary	H. C. Steely
Stanley S. Dickson	Elmer McGlothen	W. R. Tapp
Howard G. Early	C. S. Matherly	J. J. Thomas
Walter R. Fannin	Duke Mayfield	R. Van Bever, Jr.
H. Myer Garner	W. H. Miller	S. J. Wagner
G. W. Garrett	Tyler Munford	Henry Ward
Eugene Gough	J. C. Nickell	Charles Wylie
Jas. T. Hamilton	Russell O'Neill	—56

Resolved that the title thereof be as aforesaid.

Mr. Silvers moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Hunnicutt moved that the House do now recess until the hour of one-thirty o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of one-thirty o'clock P. M. having arrived, the Speaker resumed the chair and called the House to order.

Mr. Hunnicutt moved that the session of today be extended indefinitely.

Said motion was agreed to.

Mr. McConnell moved that the Rules of this House be suspended for the purpose of offering a resolution.

Said motion was agreed to.

Thereupon Mr. McConnell offered the following resolution, viz.:

WHEREAS, The duties of Penitentiary Guard is one of great hazard, and

Whereas, such duties of such prison employees require a high caliber of men in such position, and

Whereas, the salaries of such employees are extremely low comparable to other state employees, and salaries of persons in other equally hazardous pursuits, and

Whereas, living costs now current are steadily increasing: Therefore,

Be it Resolved, That the Legislative Council be requested to study the subject herein set out with a view of returning recommendation upon the result of findings of such study.

Said resolution was agreed to.

The House took up for consideration from the Orders of the Day, a resolution entitled:

S. Res. 14. Joint Resolution providing for furnishing Kentucky Directories.

Said resolution is as follows, viz.:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the State Librarian is hereby authorized and directed to purchase at not exceeding two dollars per copy five hundred fifty copies of the book entitled "Kentucky Directory 1936" for the use of the Courts, state and county officers and members of the General Assembly and such officers as may be designated by the presiding officers of the respective Houses a copy of same, and will furnish the state officials with copies of same and will send a copy thereof to the Clerk of the County Court for each county in the state to be kept in his office. The Librarian will furnish to the Librarian of each state and territory of the union a copy of said book in exchange for similar books, for such states and territories, and a copy to the Librarian of Congress, and deliver to the Secretary of State fifty copies to exchange. The expense to be paid out of the general revenue fund.

§ 2. It being necessary that the officers should have the books herein provided for, an emergency is declared and this resolution shall take effect upon its approval by the Governor.

Ordered that said resolution be read the third time.

The constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

W. T. Baker	Ben W. Johnson	Hobart Rayburn
B. F. Bedford	J. H. Jones	L. K. Rice
Reuben J. Boling	J. F. Ladd	Wade H. Riley
Ollie J. Bowen	Leslie Larrimore	W. T. Rollo
Wallace Brown	T. B. McConnell	Carl Scheben
Jas. C. Carter	J. L. McDermott	Ray O. Shehan
Roy Conway	Lloyd MacDonald	Dr. B. F. Shields
Herbert Cook	W. F. McGary	Chester D. Silvers
Walter R. Fannin	Elmer McGlothen	Bruce Sloan
H. Myer Garner	John Marshall	H. C. Steely
G. W. Garrett	C. S. Matherly	W. R. Tapp
Eugene Gough	Duke Mayfield	J. J. Thomas
James T. Hamilton	G. S. Milam	R. Van Bever, Jr.
C. L. Hammons	W. H. Miller	S. J. Wagner
W. L. Hampton, Jr.	Tyler Munford	Charles Wylie
Thomas W. Hines	J. C. Nickell	John Kirtley, Spkr.
Ira W. Hulette	Russell O'Neill	
John M. Hunnicut	J. C. Ramey	—52

Resolved that the title thereof be as aforesaid.

Mr. Hulette moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Orders of the Day, a resolution entitled:

S. Res. 13. Joint Resolution for the benefit of the Ministers of the Churches of Frankfort, Kentucky.

Said resolution is as follows, viz.:

Whereas, at the invitation of the General Assembly of Kentucky the ministers of the various churches of the city of Frankfort have officiated at the opening of the daily sessions of the General Assembly during the regular sessions of 1936 and during each special session, including the current special session:

Be it Resolved by the General Assembly of the Commonwealth of Kentucky:

That the sum of One Hundred ($100.00) Dollars to each of the following named ministers hereby is appropriated, allowed and directed to be paid, namely:

Rev. R. B. Kelly,
Rev. Joseph A. O'Dwyer,
Rev. Hampton Adams,
Rev. A. G. Stone,
Rev. Olof Anderson,
Rev. Alexander M. Warren,
Rev. E. W. Baxter,
Rev. Ross E. Dillon.

The Clerk of the House is directed to prepare certification in favor of each of the above named ministers for the sum of $100.00 as compensation for their services, and present or cause to be presented to the Auditor of Public Accounts, who will draw his warrant upon the State Treasurer in favor of each of the above named ministers for the sum of $100.00, and pay same out of and charge same to the appropriation made by House Bill No. 5, enacted by the present session of the General Assembly and approved by the Governor, the same being allowed and approved as a contin-

gent expense of the present special session of the General Assembly.

Ordered that said resolution be read the third time.

The constitutional provision as to the third reading of said resolution at length being dispensed with, said resolution was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

W. T. Baker	Thomas W. Hines	Mel Petry
B. F. Bedford	Ira W. Hulette	J. C. Ramey
Reuben J. Boling	John M. Hunnicut	Hobart Rayburn
Ollie J. Bowen	Ben W. Johnson	L. K. Rice
Wallace Brown	O. C. Jones	Wade H. Riley
Jas. C. Carter	R. T. Kirkman	W. T. Rollo
Roscoe Claxon	J. F. Ladd	Carl Scheben
George S. Clay	Leslie Larrimore	Ray O. Shehan
Roy Conway	M. T. McCarthy	Dr. B. F. Shields
Herbert Cook	T. B. McConnell	P. L. Sidebottom
Sam Dever	J. L. McDermott	Chester D. Silvers
Stanley S. Dickson	Lloyd MacDonald	Bruce Sloan
Howard G. Early	W. F. McGary	W. R. Tapp
Walter R. Fannin	John Marshall	J. J. Thomas
H. Myer Garner	D. T. Matlack	R. Van Bever, Jr.
G. W. Garrett	Duke Mayfield	S. J. Wagner
Eugene Gough	G. S. Milam	Henry Ward
C. L. Hammons	W. H. Miller	Charles Wylie
W. L. Hampton, Jr.	J. C. Nickell	—56

Resolved that the title thereof be as aforesaid.

Mr. Hulette moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had concurred in a resolution which originated in this House entitled:

H. Res. 10. Resolution of the General Assembly of the Commonwealth of Kentucky calling on the Legislative council to study and report the feasibility of allowing certain exemptions to persons granted old age assistance.

Mr. Wells moved that the Rules of this House be suspended for the purpose of offering a resolution.

Said motion was agreed to.

Thereupon Mr. Wells offered the following resolution, viz.:

H. Res. 22. Resolution requesting the Governor to allot certain sums out of the Emergency Fund to the Department of Agriculture.

Said resolution is as follows, viz.:

H. Res. 22. WHEREAS, The Agricultural industry of Kentucky is of great importance to the welfare of the people of this Commonwealth and the prosperity and the complete recovery of this Nation depends upon the rehabilitation of the great farming industry, and

Whereas, It is the sense of this House of Representatives of the Commonwealth of Kentucky that the Department of Agriculture of this State should be put in as strong a position as possible to cooperate with the Federal Government and secure every benefit offered by the Federal Government to the farmers of this State, and

Whereas, The Soil Erosion program of the Federal Government offers to farmers special opportunities in cooperation with the State Department of Agriculture for the spreading of crushed limestone upon their farms, paying to every farmer so spreading limestone on his land One Dollar and Forty Cents ($1.40) per ton, and

Whereas, It is patent that the farmers of Kentucky are anxious to avail themselves of this opportunity to improve the productiveness of their farms to the improvement not only on themselves but of the general welfare, and

Whereas, The Department of Agriculture of Kentucky is not presently equipped with sufficient and necessary machinery to adequately carry on this cooperative program with the Federal Government, and

Whereas, Such equipment as is already in possession of the Department of Agriculture is badly in need of repair and much of it needs to be exchanged for new equipment in order that a rock crushing program for Kentucky might be efficiently and economically carried on, and

Whereas, There was available in the Department of Agriculture approximately Six Thousand Dollars ($6,000.00) that could have been used for this purpose if the Department of Agriculture had been permitted to do so by the Department of Finance and Budgetary Control, but said sum was placed to the credit of the general fund after having been requested by the Department of Agriculture for lime crushing machinery, and

Whereas, It is the sense of this General Assembly that the Department of Agriculture, set up as a Department of State Government under the Constitution and dedicated to the promotion, fostering and encouraging of this great industry of our State, should at this time and at all times be given every encouragement that it might carry on its great mission as intended by the farmers of our basic law, and

Whereas, A great emergency exists for the reasons herein above set out: Therefore,

Be it Resolved, by the House of Representatives of the Commonwealth of Kentucky that the Hon. Albert Benjamin Chandler, Governor of the Commonwealth of Kentucky, make available out of his emergency fund to the Commissioner of Agriculture to be used by the Department of Agriculture of the Commonwealth of Kentucky the sum of Twenty Thousand Dollars ($20,000.00) to be used in securing new equipment and repairing equipment on hand in order that said Department of Agriculture might adequately carry out the Agricultural program in connection with the Soil Erosion Act of the Federal Government.

Said resolution was adopted.

A message was received from the Senate announcing that they had reconsidered a bill which originated in that body entitled:

S. B. 22. An Act to supervise and regulate the production, sale, marketing and distribution of tobacco, etc.

And had passed said bill as amended in accordance with the report of the Committee on Conference heretofore appointed by the House and Senate to consider said bill and settle the differences between the two Houses.

(For bill see House Journal of January 15.)

Said amendments as proposed by the Committee on Conference are as follows, viz.:

1. Amend S. B. 22, on page 4, line 9, by striking therefrom the period (.) after the word "Morgan" and adding a comma (,) and the following words "Bell, Boyd, Harlan, Knott, Leslie, McCreary, Martin and Pike".

2. Amend S. B. 22, page 6 of the original bill, Section 4, subsection (2), line 3, by striking therefrom the word "shall" and substituting therefor the word "may".

3. Amend S. B. 22, Section 4, subsection c, after the word "state" by striking out the remainder of the subsection and inserting in lieu therefor the following: "shall be the total production of such kind of tobacco in such state in the years named in subsection (b) of this section, divided by the total harvested acreage of such kind in such state in such years".

4. Amend S. B. 22, on page 7, Section 4 (c), lines 3, 4, 5, 6 and 7, take therefrom the words "except that in the case of fire-cured and dark air-cured tobacco, such decrease or increase may be as much as ten per centum (10%) for the first crop year in which this act is enforced with respect to such kind of tobacco" and insert these same words after the word "state" in Section 4, subsection (d), at the end of line 9.

5. Amend S. B. 22 as follows: On page 9 at the end of line 6, after the word "section" change the period (.) to a comma (,) and add the following words: "provided however, that the acreage and production bases for such farms, or producers, that produced tobacco during any of the years of 1929, 1930, 1931, 1932, 1933, 1934, 1935 or 1936, and which allocations, or quotas, may or are governed by subsections (a), (b), (c), (d) and, or (e) of this section shall be calculated on the basis of setting up a minimum base of two (2) acres per farm, or producer; and a production base calculated on an equal estimated yield for similar farms in the same locality; both acreage and production bases being subject to such adjustment as provided by subsection (f) of this section. A farm in the meaning of this section is intended to apply to a boundary of land of thirty acres, or more, established prior to the passage of this Act; and the base for farms of less than thirty acres shall be in the same proportion as that of two

acres to thirty acres; but subject to such regulations for subsequent divisions, transfers or exchanges, as may be prescribed by the Commission for the purpose of preventing evasions of this provision or Act, but to permit the establishment of new farms and the assignment of quotas."

6. Amend Section 5 (d), page 10, lines 4 and 5 of the original bill, change the words "on the farm and by the operator thereof;" to read "on the farm or by the operator thereof;".

7. Amend Senate Bill No. 22 by adding at the end thereof a new section:

Section 20. Whereas, the farmers are now engaged in making their contracts for the coming year, and

Whereas, as provided herein that the crop year begins before the effective date of this Act, an emergency is declared to exist and this Act shall become a law when approved and signed by the Governor.

8. Amend S. B. 22 as follows: Page 17 of the original bill, as amended in the Senate, to strike therefrom all of Section 16½.

Mr. Wells moved that the House do now reconsider the vote by which the motion to reconsider and lay on the table the vote by which said bill was passed on January 15.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Wells moved that the vote by which said bill was passed on January 15, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, the amendments as pro-

posed by the Committee on Conference, and adopted by the Senate to said bill, were each and severally agreed to.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Henry H. Allen	Thomas W. Hines	Rodes K. Myers
W. T. Baker	Clyde S. Howard	Russell O'Neill
B. F. Bedford	Ira W. Hulette	J. C. Ramey
Reuben J. Boling	John M. Hunnicut	Hobart Rayburn
Douglas Bolling	Ben W. Johnson	L. K. Rice
Ollie J. Bowen	O. C. Jones,	Wade H. Riley
Wallace Brown	R. T. Kirkman	John C. Robinson
Jas. C. Carter	J. F. Ladd	W. T. Rollo
Roscoe Claxon	Leslie Larrimore	Carl Scheben
George S. Clay	M. T. McCarthy	Dr. B. F. Shields
Herbert Cook	T. B. McConnell	P. L. Sidebottom
Sam Dever	Lloyd MacDonald	Chester D. Silvers
Stanley S. Dickson	W. F. McGary	Bruce Sloan
George W. Dunlap	Elmer McGlothen	J. J. Thomas
Howard G. Early	John Marshall	R. Van Bever, Jr.
Walter R. Fannin	C. S. Matherly	S. J. Wagner
H. Myer Garner	D. T. Matlack	Joseph L. Wall
Eugene Gough	Duke Mayfield	Henry Ward
C. L. Hammons	G. S. Milam	L. R. Wells
W. L. Hampton, Jr.	Tyler Munford	Charles Wylie

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Mr. Wells moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that the Chief Clerk report the action of this House to the Senate.

Mr. Dickson of the Committee on Enrollment, reported that they had examined and found to be correctly enrolled, bills and resolutions of the following titles, viz.:

H. B. 9. An Act to repeal and re-enact Section 1, 2 and 10 of Chapter 113 of the Acts of the General Assembly of 1934, being Section 2741x-1, etc.

H. B. 13. An Act to protect trade-mark owners, distributors and the public against injurious and uneconomic practices in the sale and distribution of articles of standard quality, etc.

H. B. 14. An Act authorizing refund of taxes paid under provisions of Chapter 149 of the Acts of the General Assembly of 1930 by the Auditor of Public Accounts upon the filing of claims, etc.

H. B. 16. An Act repealing Section 2237-1 Carroll's Kentucky Statutes 1936 Revision, being Chapter 24 of the Acts of the Extraordinary Session of the General Assembly of 1934 relating to the consolidation of the office of Jailer with that of Sheriff, etc.

H. B. 20. An Act providing for a supplementary appropriation for the Department of Welfare for the fiscal year 1936-1937

H. B. 21. An Act relating to certain officers and employees of the Department of Public Health and the Department of Public Welfare in cities of the first class.

H. B. 22. An Act relating to the office of sheriff providing additional duties, powers and compensation therefor, etc.

H. Res. 12. Resolution for the benefit of Ben Haskey, Kaley Baker, Powell Thomas, John Twyman, etc.

H. Res. 19. Resolution for the benefit of Mrs. Dora Evans, mother of the late Clarence Evans, member of this House.

S. Res. 13. Resolution for the benefit of the ministers of the churches of Frankfort, Kentucky.

S. B. 2. An Act relating to revenue and taxation and repealing Sections 4064, etc.

S. B. 10. An Act to amend and re-enact Section 4281i-1 of Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 11. An Act to amend and re-enact Section 2739g-1, Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 12. An Act to amend and re-enact Section 2739g-42, Kentucky Statutes, Carroll's 1936 Edition, relating to motor vehicles.

S. B. 18. An Act to amend and re-enact Sections 4883, 4887, 4893, 4932, 4933, 4934 and 4957 of Carroll's Kentucky Statutes, 1930 Edition, etc.

S. B. 22. An Act to provide for the supervision and regulation of the production, sale, marketing and distribution of tobacco.

S. B. 27. An Act to prohibit distribution, sale or exchange in Kentucky of goods, wares or merchandise, manufactured in whole or in part by convicts or prisoners, etc.

Thereupon all other business was suspended, said bills and resolutions were read at length and compared in open

session and found to be correctly enrolled, and thereupon the Speaker in open session and in the presence of the House, affixed his signature thereto.

Ordered that said bills and resolution, which originated in the Senate, be delivered to the Enrolling Clerk of the the Senate.

Ordered that the Enrolling Clerk of the House deliver said bills and resolutions which originated in the House, to the Senate.

After a time the Enrolling Clerk of this House delivered the original and enrolled copies of said bills and resolutions duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills and resolutions to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Milam moved that the Rules of this House be suspended and that the House agree that no further business be taken up for consideration.

Said motion was agreed to.

Dr. Shields moved that a Committee be appointed by the Speaker to inform the Senate that this House had completed the business before it and to request that a like Committee be appointed by the Senate to act with the Committee on the part of the House and wait upon the Governor and inform him that this General Assembly has completed the business before

it and ascertain from him if he desires to make any further communications.

Said motion was agreed to.

Thereupon the Speaker appointed Messrs. Shields, Myers, Tapp, Brown, Scheben as members constituting said Committee.

After a time the Committee aforesaid appeared upon the floor of the House and announced that they had discharged the duties imposed upon them and that they had been informed by the Governor that he had no further communication to make to this General Assembly.

The Journals of the House were then read and approved.

Dr. Shields moved that the House do now adjourn, *sine die.*

Said motion was agreed to.

And then the House adjourned *sine die.*

Attest:

JOHN KIRTLEY,
Speaker, House of Representatives.

B. L. HARGROVE,
Chief Clerk, House of Representatives.

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